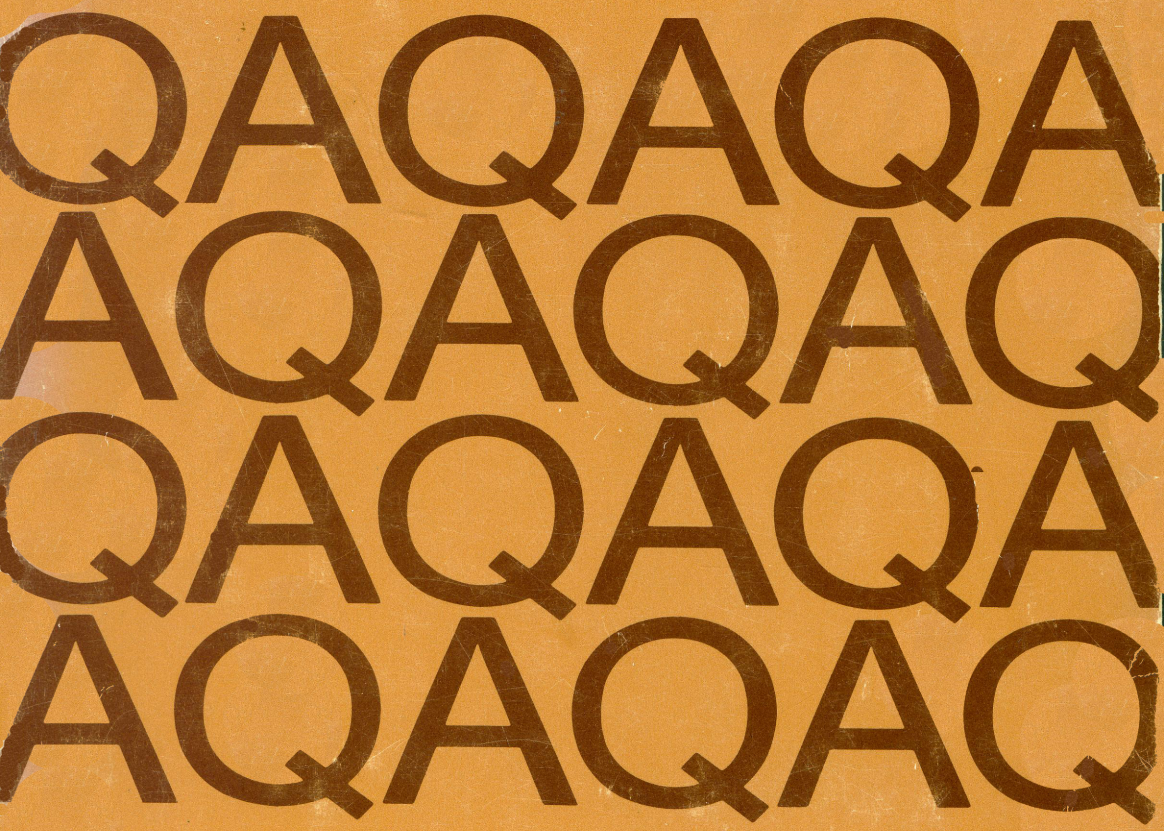
1-1-1970

Summaries of ethics rulings

American Institute of Certified Public Accountants

Summaries of Ethics Rulings



Division of Professional Ethics
American Institute of Certified Public Accountants

Summaries of Ethics Rulings

Division of Professional Ethics
American Institute of Certified Public Accountants

Notice to Readers

This is a publication of the staff of the American Institute of Certified Public Accountants and is not to be regarded as an official pronouncement of the Institute. It was prepared by the staff, and members of the committees of the ethics division assisted in an advisory capacity.

Errata Sheet — "Summaries of Ethics Rulings"

Page 152 — Rule 3.03 has been deleted.

Page 172 — Opinion No. 18 has been withdrawn and the following has been adopted as Opinion No. 18 by the Division of Professional Ethics:

"The former provision of the Code of Professional Ethics prohibiting competitive bidding, Rule 3.03, was declared null and void by the United States District Court for the District of Columbia in a consent judgment entered on July 6, 1972, in a civil action antitrust suit brought by the United States against the American Institute. In consequence, no provision of the Code of Professional Ethics now prohibits the submission of price quotations for accounting services to persons seeking such services; and such submission of price quotations is not an unethical practice under any policy of the Institute. To avoid misunderstanding it is important to note that otherwise unethical conduct (e.g., advertising, solicitation, or substandard work) is subject to disciplinary sanctions regardless of whether or not such unethical conduct is preceded by, associated with, or followed by a submission of price quotations for accounting services. Members of the Institute should also be aware that neither the foregoing judgment nor any policy of the Institute affects the obligation of a certified public accountant to obey applicable laws, regulations or rules of any state or other governmental authority."

Contents

Page

Foreword v

Relations with Clients and Public

Independence—Rule 1.01 1
Confidential Relationship—Rule 1.03 43
Contingent Fees—Rule 1.04 49

Technical Standards

Auditing and Reporting—Rules 2.02 and 2.03 53

Promotional Practices

Advertising—Rule 3.01 57
Solicitation—Rule 3.02 94
Commissions (Fee Sharing)—Rule 3.04 105

Operating Practices

Incompatible Occupations—Rule 4.04 111
Form of Practice—Rule 4.06 120
Data Processing 129

Relations with Fellow Members

Encroachment—Rule 5.01 135

General 139

Appendix A

Code of Professional Ethics 149

Appendix B

Numbered Opinions 156

Index 177

Foreword

One of the functions of the committees of the Institute's division of professional ethics is to respond to inquiries regarding the application of the Code of Professional Ethics and numbered opinions.

Summaries of some of the more interesting and topical responses of the committees have been published as "Q&A's" from time to time in *The CPA* and have been received with interest by many readers.

In response to requests for greater exposure of committee rulings in individual inquiries, the division has authorized its staff to prepare and publish this booklet of summaries of committee rulings over the past several years.

The Q&A's which follow were prepared by the staff as an aid to practitioners in resolving ethical problems. While every effort has been made to reflect accurately the files from which the Q&A's were prepared, and to avoid duplication, we recognize that we may not have been successful in every case. Therefore, it cannot be emphasized too strongly that in the summarization process an element of distortion may have been introduced in either the statement of the question or in the committee's reply. It must also be kept in mind that the ethics of the profession change to meet changing needs, and any of the Q&A's in this booklet could become outdated by a future ruling.

Some of the positions taken may be at variance with the position of a reader's state board of accountancy or CPA society, and consultation with local organizations before taking action on any ethics matter is advised.

Accordingly, the Q&A's in this booklet should be considered as a guide only and should not be taken to represent the official position of the division on any of the matters discussed herein. Members are urged to communicate directly with the division whenever they are unable to find authoritative information on specific ethical points.

While this is probably the first book of its kind, we hope it will not be the last. Readers can help to make future editions more useful by submitting inquiries to the division in areas not covered in this edition. Summaries of the responses given will be incorporated in the revised editions.

DONALD J. SCHNEEMAN, *Director*
Division of Professional Ethics

August 1970

Relations with Clients and Public

Independence—Rule 1.01

Confidential Relationship—Rule 1.03

Contingent Fees—Rule 1.04

Independence

Acceptance of a gratuity

Q. Is it proper for an employee of an accounting firm to accept a gratuity from a client?

A. It is improper for an employee of an accounting firm to accept more than a token gratuity from a client, even with the knowledge of the CPA firm, since it might tend to create an independence problem for the employee and his firm with respect to that client. Exceptional service rendered by an employee might be recognized by the accounting firm instead of the client.

Actuary as auditor

Q. When a CPA firm consults with a client on pension plan design, may he also express an opinion on the client's financial statements?

A. Even though the accounting firm may initially make actuarial computations, the computations are approved by management before they are incorporated into the financial statements which are the representations of the client. Therefore, the firm's independence would not be impaired by such activities.

Advisory committee of bank client

Q. May a partner of a firm auditing a bank serve on the bank's advisory committee without impairing audit independence? The committee

serves in an advisory capacity only and is not involved in any way with making decisions.

A. If the advisory committee serves in a purely advisory capacity, the service of the member would be considered similar to that offered by a CPA acting in a consulting capacity to a board of directors. On the other hand, if the bank's board routinely acts affirmatively on "recommendations" of the advisory committee, an objective third party might feel that the board has transferred its responsibility to the advisory committee, and that the appearance of independence would be lacking.

"Associate Director" of client

Q. May a member be listed as "Associate Director" of his audit client if he has no vote at board meetings and receives no directors' fees?

A. Whether or not he is entitled to vote or is paid for such services, it would be assumed that the CPA was a part of the management and he therefore would not be considered to be independent. Of course, this does not prevent him from attending directors' meetings to give advice and consultation.

Association membership

Q. A member audits a home builders association and serves many of its individual members as their accountant. If the member joined the association, would his independence be affected with respect to the association and its individual members who are his clients?

A. The independence of the member would not necessarily be affected, provided his membership in the association was inactive and he did not participate in the management of its affairs.

Auditor as commissioner of highways

Q. A member has been asked to serve as one of 11 commissioners of the state highways. He is presently auditor of a turnpike authority which administers toll roads throughout the state and which comes under the jurisdiction of the commissioners. The commissioners have no jurisdiction in making decisions that affect income or expense of a

capital nature without approval of consulting engineers as provided in the turnpike bond indenture. May he accept the appointment as a commissioner and still audit the authority?

A. Since the authority is under the overall jurisdiction of the commissioners, the member would lack independence if he were to accept the appointment. The fact that an agency such as the consulting engineers would have to agree with any decisions of the commissioners would not cure the lack of independence.

Auditor as controller

Q. A partner of a firm which audits a city has been asked to assume the title of city controller. The controller's responsibilities are to currently audit all receipts and disbursements of municipal funds and to report monthly thereon to the council. The office does not embrace the usual duties of a controller and is limited to those of an internal auditor. In addition, the controller makes no management decisions. Would this relationship impair audit independence?

A. The title of city controller carries connotations of being a city official and the appearance of independence in the eyes of outsiders would be destroyed by this relationship. While the performance of the duties outlined under the city charter may not impair independence in fact, the charter appears to imply that the independent auditor is required to check, among other things, on the performance of the city controller and the accountant for the city.

Auditor as co-signer of payroll checks

Q. A member has been requested by an audit client to accept the responsibility in emergency situations of co-signing executive payroll checks with a designated employee of the company. Would this activity cause him to be considered lacking in independence?

A. This relationship would not destroy independence in fact, but the member should decline the proposed arrangement on the basis of appearance. If the client were informed of the importance of the appearance of independence, a similar accommodation could be secured through the client's bank or attorney.

Auditor as director of bank's parent

Q. A partner of a firm is one of three directors of a company having a 58 per cent interest in a bank. May the firm express an opinion on financial statements of the bank?

A. No. The fact that the directors may not have taken an active part in the management of the bank would not change this response, since obviously, they could do so if they desired.

Auditor as fund raiser

Q. A partner of a firm auditing a hospital has been asked to serve on an endowment committee which will promote deferred gifts for the long-range development of the medical center. The endowment committee would be charged with administering the resulting endowment fund and would be authorized to "negotiate deferred gift contracts, establish interest rates, invest endowment funds, and perform other responsibilities." The executive committee of the medical center would have the right to amend any actions of the endowment committee. Would the firm's independence with respect to the hospital be impaired if the partner accepted service on the endowment committee?

A. The member's acceptance of this post would impair the firm's independence, since the endowment committee would make decisions affecting the revenues or income of the hospital. If the endowment committee wished to avail itself of the expertise of the CPA, it might request him to serve as a consultant to the committee.

Auditor as legislator

Q. A partner of an auditing firm is an elected legislator of a local government. The city manager, who is responsible for all administrative functions, is also an elected official. May the firm audit the governmental entity while one of its partners serves in a legislative capacity?

A. The firm would be considered lacking in independence if a partner served as an elected legislator of a municipal body at the same time that the firm is engaged as auditor for the body, even when the city manager is an elected official rather than an appointee of the legislature.

Auditor as management consultant

Q. A member has provided extensive management advisory services for a client whose growth problems required continual counseling. In that connection, the member has attended board meetings, prepared and interpreted financial statements, forecasts and other analyses, counseled on potential expansion plans, and participated in negotiations with bankers. Would these associations with the client cause the member to be considered as having "taken part in decision making" as the term is used in Opinion No. 12?

A. The services described are those often performed by CPAs for small and/or growing clients, and as long as the client is capable of independently assessing the accountant's advice, and making his own decision with respect to that advice, the CPA would not be considered to be lacking in independence by virtue of his management consulting activities.

Auditor as recordkeeper

Q. An audit client plans to process receipts, disbursements, and other documents of original entry on its computer and to transmit this raw data to a service center for further processing into a general ledger and other statistical reports. If the accounting firm were itself to provide this "further processing service," would its independence be impaired?

A. The Institute has not taken the position that the performance of write-up work for an audit client impairs independence. Since the classification and judgmental functions in this case would be performed by the client, the member's independence would not be impaired.

Auditor as trustee

Q. A tax-exempt charitable foundation is the sole beneficiary of the assets of the estate of the foundation's deceased organizer. A partner of the firm auditing the estate has been invited to become a trustee of the foundation. Would this relationship impair the firm's independence with respect to (1) the foundation and (2) the estate?

A. If a partner of the auditing firm were to become a trustee of the foundation, the firm's independence with respect to the foundation would be

impaired. The exception in Rule 1.01 was intended primarily to cover those situations in which a member was lending his name to a worthwhile cause without assuming administrative or financial responsibilities.

If the partner were to become a trustee of the foundation, the firm would also be considered lacking in independence with respect to the estate, since the foundation would be the sole beneficiary of the estate's assets.

Auditor as trustee of college

Q. A partner of a firm auditing a college has been asked to become one of 15 college trustees. He feels that his vote on the board would not be a decisive influence in making policy decisions. The audit is one of the firm's largest accounts but the fee generated is less than 2 per cent of gross revenue. Would the firm be considered to be independent if he accepted the invitation?

A. The question is not whether the partner's vote would be a decisive influence on the board, but whether his participation on the board would involve him in management decisions, in no matter how small a way, which he might later have to review and on which he would be expected to express an independent and objective opinion. Accordingly, the firm would be considered to be lacking in independence. The college could benefit from the auditor's expertise through seeking his advice on an informal consulting basis.

Auditor as trustee of fund-raising foundation

Q. A member has been elected trustee of a foundation established to raise funds for a university. The funds are disbursed in accordance with bequests of the donors or on the recommendation of university officials, although the 18 trustees have the final authority for the disposition of funds. In addition, the member serves on an *ad hoc* committee which makes recommendations to the board of trustees regarding the investment of the foundation's funds. Would the member's firm be considered independent under the exception in Rule 1.01 in favor of directors of charitable or other similar types of nonprofit organizations?

A. The exception in Rule 1.01 as to a "director" in a charitable organization applies to advisory type boards only, which have no management

function and which have no authority to appropriate funds. Where, as here, the trusteeship and other duties appear to involve much more than merely a passive or incidental association, the firm would be considered lacking in independence. However, a useful relationship could be maintained with the foundation through the member's serving as an outside consultant rather than as a trustee.

Auditor of stockbroker

Q. A firm is auditor of a stockbrokerage firm. May it also audit a company entering into an underwriting agreement with the brokerage firm? Would independence be impaired if partners and staff had cash accounts with the brokerage client?

A. There would be no lack of independence if the auditors of a brokerage firm act also as auditors for a company entering into an underwriting agreement with that brokerage firm.

There would be no loss of independence if partners and staff of the auditing firm had cash accounts with the brokerage firm since, in a cash account, no extension of credit is involved. If the partners had margin accounts, the principles of Opinion No. 19 would apply.

Auditor's endorsement of school board candidates

Q. A member who is independent auditor of the accounts of a board of education sent a letter to various voters in support of the re-election of the incumbent board. Would this activity impair the auditor's independence with respect to the school board?

A. An open solicitation for the re-election of the school board by the board's auditor is an indiscretion which could give rise to adverse publicity and a challenge to the auditor's independence. While it is desirable for a CPA to become active in politics, his active support of persons, some of whose activities he is reviewing, could easily be construed as imposing great pressure on his objectivity.

Bank director-stockholder as auditor for depositor

Q. A member in public practice acquired a 25 per cent stock interest in a state chartered bank and became a director. Would this affect his

independence with respect to a savings and loan association which may have demand and time deposits with the bank?

A. A member would not be lacking in independence with respect to a client merely because the client is a depositor at a bank in which the member holds a substantial financial interest and of which he is a director.

However, there could be a latent conflict of interest if, for example, there came a time when the member, as both a director and a substantial stockholder in the bank, came upon information of possible interest with regard to his depositor-client. He would then have a real problem in determining where his primary responsibility lay. Such situations seem unavoidable unless the bank neither received deposits from nor made loans to any of the member's clients. In addition, questions of independence would almost inevitably arise in cases in which the size of the deposit were material and the accountant participated in a major way in the management of the bank. The decision as to independence is therefore left to the CPA, but he should be apprised of some of the latent dangers in the arrangement.

Board of directors of client affiliate

Q. An accounting firm audits the financial statements and prepares tax returns for a group of corporate, partnership, joint-venture, and individual clients who are interrelated by varying degrees of common ownership. A partner of the firm is contemplating becoming an officer and director of one of the corporations in question, which is engaged in the construction and property management business, and which plans to open an insurance department. The corporation's stock is owned by two individuals who also own interests in other corporations, partnerships, and joint ventures. The amount of their ownership in these other ventures ranges from 66⅔ per cent to 20 per cent or less. The corporation in which the partner would become an officer and director has no equity in any other venture. While it is obvious that the firm cannot audit the corporation for which a partner serves as officer and director, can it audit the various other related ventures without violation of Rule 1.01?

A. Since not enough details were given regarding the relationships in question, no definite answer can be given.

However, a member must take into consideration *all* of the relationships involved in a given situation to decide whether a banker,

credit grantor, stockholder, or other third party having knowledge of these relationships might have reason to question the member's independence and objectivity. For example, in his capacity as officer and director of one of the organizations in the group, the partner of the auditing firm would be subject to some extent to the direction of the two stockholders. In these circumstances, a third party might have reason to question his independence with respect to any other entities controlled by the same stockholders. The question of incompatible occupations should also be considered. A member who conducts a public accounting practice and simultaneously serves as an officer and director of a corporation engaged, among other things, in the insurance business, might be subject to the charge that he was using his position as a means of attracting clients to his public accounting practice.

The guiding principle in such matters is set forth in Opinion No. 12: ". . . it is of the utmost importance to the profession that the public generally shall maintain confidence in the objectivity of certified public accountants in expressing opinions on financial statements. In maintaining this public confidence, it is imperative to avoid relationships which may have the appearance of a conflict of interest."

Board of directors of Community Chest

Q. Would a member's independence with respect to a local Boy Scout council and a Legal Aid Society be impaired if he served as a director and assistant treasurer of the United Community Chest, which serves as a federated fund-raising organization from which the Boy Scouts and the Legal Aid Society receive funds?

A. Since the officer-director of the Community Chest does not exercise managerial control over the independent groups participating in the fund-raising organization, such service would not jeopardize the auditor's independence with respect to these participants.

Board of directors of country club

Q. May a partner of an accounting firm serve on the board of directors of a nonprofit country club audited by his firm?

A. The exception in Rule 1.01 for "charitable, religious, civic, or other similar type of nonprofit organizations" was intended primarily to cover

those situations in which a member was lending his name to some worthy cause without assuming important administrative or financial responsibilities.

A country club is not the type of organization covered by the exception because it is run strictly for the benefit of its own members. In addition, the board of directors of a country club usually has the ultimate responsibility for the affairs of the club. Therefore, a member auditing its financial statements would not be considered independent if he was at the same time on its board of directors.

Board of directors of credit union

Q. A member performs an annual audit of a credit union. Would his membership on the supervisory committee, which has many of the powers of a board of directors, make him lacking in independence?

A. A member of a credit union supervisory committee, because of his management responsibilities, would not be considered independent with respect to the credit union.

Board of directors of holding company

Q. A principal in an accounting firm has been asked to join the board of directors of Corporation A of which he owns 2 per cent of the capital stock. Corporation A is a holding company that owns 88 per cent of the capital stock of Corporation C. If the principal joins the board of directors of Corporation A, would the independence of his accounting firm be impaired with respect to Corporation C?

A. Because one of the principals in the accounting firm owns 2 per cent of the capital stock of Corporation A, the accounting firm would be considered lacking in independence with regard to Corporation C. Lack of independence would seem even more apparent if the principal of the accounting firm were also a director of Corporation A.

Board of directors of subsidiary

Q. A client company has asked its auditor to become an officer and board member of a foreign subsidiary. The subsidiary will be audited by

local chartered accountants. If the auditor of the parent company accepts the officership of the subsidiary and membership on its board, would he be considered independent with respect to the parent corporation?

A. Because a position as officer and board member of the foreign subsidiary might suggest a lack of independence to a reasonable observer having knowledge of all the facts, the auditor of the parent company would be considered lacking in independence with respect to the parent company.

Board of directors of YMCA

Q. May a partner of a CPA firm serve as a member of a four-man board of directors of a YMCA audited by the firm?

A. The exception in Rule 1.01 applying to nonprofit organizations was intended to cover those situations in which a member was only lending his name to a worthy cause without assuming important administrative or financial responsibilities. If the YMCA chapter on whose board the partner serves is small and has little or no professional staff, he would presumably be exercising a measure of executive control over the work of the chapter, and the nature of his duties would be such that he could not express an independent opinion on the financial statements. If, on the other hand, the YMCA chapter was large and was administered by a competent paid staff, and the board as a whole was not involved in management of the operation, the partner's position on the board of directors might be considered purely honorary, and third parties having knowledge of all the facts would have no reason to question the firm's independence.

City council chairman

Q. May a CPA firm, one of whose partners is the chairman of the city council of a principal city within a state, audit state governmental agencies and other governments within the state?

A. Service of a partner on the city council would not cause a firm to be considered lacking in independence with respect to any governmental unit except those under the council's control. The firm might be considered to lack the appearance of independence with respect to any

other governmental agency upon whom the city depended for any material amount of funds.

City councilman as auditor of municipality

Q. May a CPA serve as independent auditor of a municipality when, for a part of the audit period, he served as a city councilman under the city-manager type of municipal government?

A. No. The member would not be considered to be independent for the purpose of expressing an opinion on the municipality's financial statements in these circumstances.

Consultant to an accounting firm as director of client

Q. A corporation's quarterly report to stockholders indicated that a CPA, described as a consultant to an accounting firm, was elected a director of the company. The accounting firm in question also served as independent auditors of the corporation's accounts. Does this situation constitute a violation of Rule 1.01?

A. If the consultant is not a partner or an employee of the accounting firm there is no impairment of independence. (See Opinion No. 16.)

Controller as auditor

Q. Would the independence of a firm be jeopardized by having a staff employee of the firm serve as a resident auditor of the client?

A. An auditor is not necessarily lacking in independence because he or his firm has written up the client's books, made adjusting entries, and prepared financial statements. If the functions of the employee are limited to those normally performed by field auditors, the independence of the firm would not necessarily be impaired. However, if an employee of an accounting firm signs checks, approves vouchers, employs and discharges personnel, or performs any other functions of management, the independence of the firm would be jeopardized.

In summary, a member or a firm of which he is a partner would not be considered independent with respect to any enterprise if a staff

member of the firm makes management decisions or exercises the controllership function of the enterprise. (See Opinion No. 12.)

Controller, preparation of financial statements

Q. A corporation which employs a member as controller is audited by a firm of CPAs. The controller prepares and certifies the statements of a subsidiary corporation. Can the outside firm accept this statement for the purpose of preparing a consolidated balance sheet?

A. It could not, since, as an employee of the corporation, the controller cannot express an independent opinion on financial statements of the subsidiary.

Controller re-entering public practice

Q. A former partner of an accounting firm has been serving as controller of one of the firm's audit clients. Since he now wishes to return to public practice, arrangements have been made for him to join the accounting firm's staff, with a view toward ultimate partnership. When this takes place, he will have severed all connections with the client and will have disposed of all financial interests. He would not participate in the current audit of his former employer's financial statements. The accounting firm will be called on to express an opinion in an SEC registration statement on financial statements covering a period (prior to this individual's employment with the firm) during which he was employed by the audit client. He will not be offered partner status until after the firm's examination has been completed and its report submitted on the current year's financial statements. He will not participate in the current year's audit or in the audit of subsequent years until the firm is satisfied that all major problems relating to transactions in which he might have been involved have been cleared. At what point in time may the firm express an independent opinion?

A. Rule 1.01 was not intended to restrict the movement of personnel between public accounting firms and their clients, though such movement can raise questions of independence. For example, if the controller of an enterprise severed his relationships with that enterprise and accepted a position as partner-in-charge of the audit of that enterprise

for a period during which he served as controller, a reasonable observer might not consider him independent, objective, and unbiased—even though at no time was he simultaneously a partner of the accounting firm and a key employee of the client.

In the present circumstances it appears that, since proper precautions are being taken, the firm's independence in both fact and appearance could be maintained. The principal precaution is to provide an adequate lapse of time during which the former officer or employee of a client who is now associated with the accounting firm as a staff member has no part in the audit of his former employer. The other precautions to be taken by the firm seem to assure compliance with both the letter and the spirit of Rule 1.01.

County executive

Q. A CPA holds a full-time elective office as the chief executive of a political subdivision of his county. He continues to practice as a CPA through his accounting office staff. May he accept engagements for certified audits of other departments of the same county?

A. The CPA could not be considered independent in these circumstances.

County supervisor

Q. A CPA firm serves as auditor for the following elected county offices: county treasurer, circuit clerk, county clerk, sheriff, and county superintendent of schools. After the completion of the audits the firm employed as a staff man an accountant who was also serving on the county board of supervisors. This board approves all purchases and supervises the county officers. For service on the board the staff man receives $1,000 a year. Would the staff man's membership on the board impair the firm's independence?

A. The fact that a member of the board of supervisors is an employee of the firm could predispose the board to favor the selection of the firm over others. The circumstances also might influence the conclusions of the partners or employees connected with the audit. Also it was brought out that any censurable act of the board of supervisors might result in unpleasant publicity for the firm, since the board member, as an employee of the firm, cannot help but be classed as

part of the firm's "family" in the eyes of the public. Therefore the relationship would impair the independence of the firm.

Deferred compensation committee

Q. A member has been invited by a client to serve on a committee which administers its deferred compensation program. Service on this committee will entail general supervisory services but will not involve participation in company management. Would service on such a committee cause a member or his firm to be considered lacking in independence?

A. Service on a committee of this type would appear to be participation, even though small, in corporate management and could impair independence. The member could render helpful consulting assistance without joining the committee.

Director as auditor of retirement and profit-sharing trust

Q. May a member serve in the dual capacity of director of an enterprise and independent auditor of that enterprise's profit-sharing and retirement trust?

A. The member could not expect a third party to consider him independent, objective, and unbiased with respect to the enterprise's profit-sharing and retirement trust. As a director of the enterprise, the CPA would be in a position to vote on amendments to the trust agreement which, in the eyes of a third party, might appear to jeopardize his independence as auditor.

"Director Emeritus" of audit client

Q. Is an accounting firm's independence impaired if a retired partner serves as a "Director Emeritus" (having no voice or vote in corporate affairs) of a savings and loan association which is to be audited?

A. According to Opinion No. 16, as long as the "Director Emeritus" has severed all ties with the firm except as provided in the Opinion, his service as a director of the savings and loan association would not impair the firm's independence.

Director of merged company

Q. Firm A proposes to merge with Firm B as of January 1. One of the three partners of Firm B is a stockholder and director of an audit client of Firm A, whose fiscal year ended October 31. Prior to the merger, the partner of Firm B would resign as a director and dispose of the stock in the client of Firm A, and all audit work with respect to Firm A would be completed prior to the merger. May the merged firm of A & B express an opinion with respect to the year prior to the merger, and with respect to subsequent years?

A. Rule 1.01 of the Code provides in part ". . . a member or associate will be considered not independent, for example, . . . if he, or one of his partners . . . (b) during the period of his professional engagement, at the time of expressing his opinion, or during the period covered by the financial statements, was connected with the enterprise as a promoter, underwriter, voting trustee, director, officer or key employee. . . ."

Since one of the partners of the merged firm will have been a director during the period covered by the financial statements, the merged firm would be considered lacking in independence. However, if the audit work is completed and the report issued by Firm A prior to the merger, Firm A would not be considered to be lacking in independence.

The same rule would apply with respect to subsequent years, during which the merged firm would be considered lacking in independence if any of its partners served as a director or officer of the client during any of the three periods outlined in the above-quoted rule.

Employee as member of board of directors

Q. A staff man of an accounting firm is a member of the board of directors and treasurer of a federal savings and loan association. The staff member has no proprietary interest in the accounting firm. The firm is conducting negotiations with the savings and loan association which may lead to the performance of an opinion audit. If the engagement materializes, the firm will not use the staff member in question on the audit. Would the firm be considered independent under these circumstances?

A. While not explicitly forbidden by Rule 1.01, the relationship in question might appear to jeopardize the firm's independence. A reasonable observer, who had knowledge of all the facts, might believe that the

CPA firm was auditing and expressing an opinion on the management decisions of one of its own employees. The firm should therefore not accept the engagement.

Executor of an estate

Q. A member has been named co-executor of an estate which has a controlling interest in a corporation audited by the member. That control is to remain with the executors as trustees until the children of the deceased reach maturity. Can the member serve as independent auditor of the corporation?

A. No. The relationship in question would impair the auditor's independence.

Family relationship, brother

Q. A member's brother owns 9.32 per cent of the stock and is one of three vice presidents of a small, closely held, local corporation. The member is a partner in a small CPA firm in the same town. The corporation seeks to engage the member as its auditor. Is he lacking in independence with respect to this corporation because of his relationship with its officer-stockholder?

A. The member would not be independent. The ruling is predicated not on the brother's stock ownership, but rather on his position of responsibility in the closely held corporation located in the same town as the small CPA firm. The fact that a vice president in an apparent position of authority might be able to use his familial relationship to exert undue pressure on his CPA brother gives the appearance of a lack of independence.

Family relationship, brother

Q. The brother of an accounting firm's senior partner is the treasurer and 26 per cent stockholder of a client of the firm. Is the firm considered to be lacking in independence with respect to the client under Rule 1.01?

A. The firm is lacking in independence on two accounts: (1) a reasonable observer who knew that the firm's senior partner was the brother of

the client's treasurer would not be expected to consider the firm's opinion on the statements of such client to be independent, objective, and unbiased; and (2) the accounting firm is considered to have a "material indirect financial interest" in the enterprise in question.

Family relationship, brother-in-law

Q. Would a firm be considered independent when one of the partners is the brother of the wife of a 17 per cent shareholder in one corporation and a 24 per cent stockholder in another corporation, both of which might be audited by the firm? The stockholder is active in the conduct of both corporations.

A. The question appears to be whether the ownership of 17 per cent and 24 per cent interests of the brother-in-law of a partner would render the firm lacking in independence. On the basis of the facts submitted, the member would not necessarily be considered lacking in independence, since it did not appear that there was any close relationship between the partner and his sister and brother-in-law.

Each independence inquiry dealing with family relationships must be determined on its particular set of facts, and the member would be expected to assess whether, in the circumstances, a third party having knowledge of all the facts would consider the partner independent in spite of the stock ownership by his brother-in-law.

Family relationship, father

Q. A member has been asked to perform an audit of a school district. Would he be considered independent with respect to the school district if his father was a member of the school board during the period for which the member performed the audit? Would he be considered independent with respect to the school district if he performed the audit after his father's term on the school board had expired?

A. The member would be considered lacking in independence if his father was a member of the school board either during the period of the professional engagement, at the time of expressing his opinion, or during the period covered by the financial statements.

Family relationship, uncle by marriage

Q. May a member audit a company, one-third of which is owned by an uncle by marriage of the member's wife? Personal contacts are infrequent (approximately once a year) and contact by correspondence is also irregular and infrequent.

A. The family relationship is so remote that in the absence of special circumstances, it would not cause a lack of independence.

Family relationship, son

Q. The son of a senior partner of an accounting firm is a director of a savings and loan association audited by the accounting firm. The son, a practicing attorney, maintains a home separate from his father, and there is no financial relationship between them. The affairs of the association have been dictated for over 50 years by the family owning its stock. A bulletin of the Federal Home Loan Bank Board states: "A public accountant will not be considered independent if he is a member of the immediate family of a director." Would the member firm be considered independent under the Institute's Code?

A. The accounting firm is independent with respect to the savings and loan association under the Institute's Code. However, the Federal Home Loan Bank Board has the right to promulgate its own regulations and the inquiring member should seek a ruling from the Board to assure the association client that the accounting firm's audit would be recognized as independent by the Board.

Family relationship, son

Q. When a client of a member sold stock for the first time to the public, the member purchased a thousand shares as an educational fund for his minor son. These holdings are not material in relation to the company's capitalization or to the auditor's net worth, but they are in relation to the son's personal fortune. The member is requested to express an independent opinion on the financial statements of the company. Does this situation involve a violation of Rule 1.01?

A. Transferring the financial interest to his son's name does not make the interest indirect. Consequently, materiality is not a factor in determining independence in these circumstances, and the auditor must either

dispose of the financial interest or disclaim an opinion because of his lack of independence.

Family relationship, wife as trustee

Q. A CPA's wife is trustee of certain trusts for the wife's niece and for a person who is no relation by blood or marriage to either the CPA or his wife. Would the firm's independence be impaired if the trust purchased shares in an audit client?

A. If the CPA were the trustee of either of the two trusts, it would be quite clear that there would be a lack of independence resulting from a purchase of securities in a client company by the trust. Since the ownership of shares by a wife has consistently been imputed to her husband for purposes of the independence rule, purchase by the trust of shares in an audit client would cause the firm to be considered lacking in independence.

Fees

Q. During the first year of its existence, $11,000 or 37 per cent of a firm's fee volume of $30,000 comes from one client. An additional $9,000 or 30 per cent comes from another, so that two clients have accounted for 67 per cent of its volume. What are the effects of these facts on audit independence?

A. In the case of most smaller accounting practices, one or two clients often account for a high percentage of total fees in the earlier years of the firm's existence, and this is to be expected, since the practice is still developing. However, practitioners are well advised to diversify their practices from the point of view both of economics and appearances. If a single client were to account for most of an accounting firm's fees and this condition persisted over a period of years, it might appear that the accounting firm was not independent.

Fiduciary corporation

Q. In a state which prohibits partnerships from acting as a fiduciary, may a public accounting firm form a corporation to act as trustee or executor for clients?

A. Service as a trustee for an audit client could result in a loss of independence. However, not all accountants perform auditing services for all clients and it is understood that many members do serve as fiduciaries for nonaudit clients. Since such services are those of a type performed by public accountants, members would be required by Rule 4.05 to conduct these activities in such a way as to be consistent with the entire Code of Professional Ethics.

Financial interest by employee

Q. Would a firm be considered lacking in independence if an employee who worked on the audit staff owned stock in the client to be audited?

A. Opinion No. 12 reads in part ". . . it is imperative to avoid relationships which may have the appearance of a conflict of interest." This would, in general, preclude any member of the audit staff involved in the engagement from owning any stock in the client being audited. However, there may be isolated situations in which a member of the audit staff might have an immaterial financial interest in the audit client without necessarily impairing the firm's independence as, for example, when an audit involves the work of a number of staff men and the most junior member has an insignificant investment in the client.

An employee of the accounting firm who is not involved in the audit might have an immaterial financial interest in the audit client of his firm without impairing the independence of his firm.

Financial interest in bonds

Q. A firm audits a municipal authority which is managed by an appointed commission but whose funds are handled by municipal officials. The outstanding bonded indebtedness of the authority is $700,000. The accounting firm owns or controls none of the debt of that authority but it has an investment in other bonds of the municipality. Is it independent of the authority?

A. Such investment would represent an indirect financial interest within the meaning of Rule 1.01. In these circumstances, the question of independence would depend on materiality of the indirect interest of the firm.

Financial interest in bonds

Q. An accounting firm audits a municipal authority operated as an independent agency whose books and records are kept separately from regular municipal records. The outstanding bonded indebtedness of this municipal authority amounts to $2,500,000. Partners of the CPA firm own directly or control indirectly $25,000 of the bonds. Could the firm express an independent opinion on the financial statements of the authority?

A. The auditor would have a direct financial interest in that agency and accordingly would be considered not independent. Since the interest is direct, materiality is not an issue.

Financial interest in co-op apartment

Q. An accounting firm has been retained as the auditors of a 600-unit co-operative apartment house. The owner of each unit has a vote in the co-op. Would the firm's status as independent auditors be jeopardized if one or more of its partners took an apartment in such a co-op?

A. The firm's independence would not be jeopardized under the circumstances, provided the terms of the partners' leases were comparable with the terms of the leases of the other occupants and the partners did not exercise their right to vote, serve as officers, or otherwise participate in the management of the co-operative.

Financial interest, indirect

Q. If a CPA owns or controls real estate rented by a client, would he be prohibited from rendering an opinion on that client's statements?

A. It would be unacceptable for a member to be auditor of a client who rents property owned by the CPA, unless the rental or business value of such property to both the client and the CPA was so small as to be inconsequential.

Financial interest, indirect

Q. A member has a substantial interest in a company which is indebted to a real estate corporation for an amount equal to less than 4 per

cent of the assets of the real estate company. He has been asked to assist another accounting firm in the auditing of the creditor corporation to which his company is in debt. Would acceptance of the engagement involve a violation of Rule 1.01?

A. Since the financial interest in the client is indirect and apparently not material, acceptance of the engagement would not, on the facts submitted, constitute a violation of Rule 1.01. Nevertheless, the relationship should be discouraged since a conflict-of-interest situation might arise in the future. There would be no objection to the member's assisting in the audit of the real estate corporation, provided the other accounting firm had responsibility for the audit and signed the opinion.

Financial interest in parent of client

Q. The partners of an auditing firm own 8,000 shares of investment letter stock of Corporation A which has outstanding approximately 820,000 shares. Corporation A proposes to acquire through an exchange of stock Corporation B which is a client of the auditing firm. Will the auditing firm be considered independent with respect to the financial statements of Corporation B as a wholly owned subsidiary of Corporation A?

A. A stockholder in a parent company has a direct financial interest in a subsidiary. Therefore, the firm would not be considered independent with respect to Corporation B.

Financial interest in parent of client

Q. Partners of an accounting firm own 5,000 out of 300,000 shares of stock in Corporation A or 1.67 per cent of the total issue, and one partner of the firm is a director and treasurer. Corporation A in turn owns 7.35 per cent of the outstanding stock of Corporation B. Would the firm be considered independent with respect to Corporation B?

A. The firm would be considered to be lacking in independence. Corporation A's interest in Corporation B is material and the investment of the partners of the firm in Corporation A is material with respect to the net worth of the partnership and the partners individually. The conclusion that independence is lacking is reinforced by the fact that a partner of the accounting firm is a director and treasurer of Corporation A.

Financial interest, insurance policy

Q. A firm has been asked to audit a mutual life insurance company which issued a nonparticipating ordinary life insurance policy on the life of one of the partners of the firm. The policy is payable to the firm and represents one-half of the life insurance held by the firm on this partner. The policyholder is, by definition, a member of this insurance company. Is the firm independent?

A. As a policyholder, the partner is considered to have an indirect financial interest in the carrier and the test of materiality would be applied. If the premiums invested are not material, either in relation to the total assets of the life insurance company or to the net worth of the CPA firm, and if the auditor refrained from exercising any voting privileges, he would not be considered in violation of the independence rule.

Financial interest, loans from client

Q. Partners of an accounting firm have formed a corporation to construct a building to be leased to the accounting firm as office space. The corporation will finance the building by a loan from a lending institution which is an audit client of the firm. Would the loan impair the independence of the accounting firm with respect to the lending institution?

A. If the loan has no unusual provisions and results from arm's-length bargaining, it would not affect the independence of the firm.

Financial interest, loans to client

Q. A partner has made personal loans to an audit client on long-term secured and unsecured notes. The loans are not material to the partner's net worth, the firm's net worth or the client's net worth. Would the existence of such loans impair the firm's independence?

A. Relationships of the type indicated as distinguished from debtor-creditor relationships arising out of the normal course of business would in most cases impair independence without regard to materiality.

Financial investment in affiliated company

Q. Two partners each have a 3 per cent interest which is not material to their net worth in investment Corporation A which has capital of $60,000 and 18 other shareholders who participate in its management. Corporation A has invested $10,000 in Corporation B. Would the partners be considered independent with respect to Corporation B?

A. The partners are active in the management of a company which has invested a material (16 per cent) amount of its capital in a corporation they propose to audit. Although their personal investment is not material to their own net worth, a third party could well question whether their examination would be unbiased and objective in view of their financial involvement. Therefore, the firm would be considered to be lacking in independence.

Finder's fee, independence

Q. A member has been requested by a client to assist in finding a buyer for a corporation the client wishes to sell and to negotiate a sale on a basis acceptable to the client. The compensation to the member would be a percentage of the total selling price. Is it objectionable for the member to accept this engagement? If there is no objection, would the member be considered independent with respect to a client or future client who might buy the corporation?

A. Rule 1.04 which prohibits a member from rendering a service for a fee whose receipt is contingent upon the results of such service would prohibit such a fee arrangement. The receipt of a fee should be determined by the service to be rendered and not by whether or not the sale takes place; nor should the amount of the fee be based on the total selling price. An accounting firm would not be considered lacking in independence with respect to a client or future client who would become a buyer of the corporation provided the fee received by the accounting firm was not contingent upon the sale.

Governmental unit, county

Q. If a member serves on a citizen's committee which is studying possible changes in the form of a county government he audits, would such changes cause him to be considered lacking in independence? If he

also serves on a committee appointed to make a study of the financial status of a state, would such service cause him to be considered lacking in independence with respect to the audit of a county which is in that state?

A. Service on either committee would not impair the member's independence with respect to the county.

Investment

Q. A member owns one per cent of Company Z, an investment representing 20 per cent of his net worth. A client owns 20 per cent of Company Z, controls Company X and Y, and is involved in the management of X, Y, and Z. Could the member express an independent opinion on the financial statements of X and Y?

A. The member would be considered lacking in independence with respect to Company X and Y by virtue of the investment of a material part of his net worth in Z along with the owner of X, Y, and Z. Joint business ventures by CPAs and their audit clients are consistently discouraged.

Joint investment

Q. A retired partner of accounting Firm X receives as retirement benefits regular monthly payments for a seven-year period. He is now president and director of an SBIC client of the firm and owns a 75 per cent interest in an out-of-state company, the remaining 25 per cent of which is owned by an active partner of Firm X (which audits the SBIC). The 25 per cent interest is the most substantial asset of the active partner (who is not involved in the audit) and in addition, he has pledged his 25 per cent interest as collateral for a $50,000 interest-bearing promissory note held by the president, the first payment on which is due in the first year that the president's retirement benefits cease. Under these circumstances, would Firm X be considered to be independent of the SBIC?

A. The joint venture of which the president of the SBIC has a 75 per cent interest with a partner of an auditing firm who has a 25 per cent interest creates the appearance of nonindependence of the active partner

to the president. This is particularly true since the 25 per cent interest of the auditing firm's partner constitutes his principal asset and is collateralized for a loan from the president. The firm would not be considered to be independent of the SBIC.

Joint investment

Q. A partner of a CPA firm owns a one-sixth interest with five other individuals in a real estate venture. One of the other five co-venturers owns practically all of the stock of a manufacturing company. Would the accounting firm be considered independent with respect to the manufacturing company?

A. The firm would be considered lacking in independence unless the interest of the partner were wholly immaterial with respect to his net worth and the net worth of the firm. As in other cases of this nature, the member would have the responsibility of assessing his relationship to determine whether in the circumstances a third party having knowledge of all the facts would consider the firm to be independent.

Joint investment

Q. A partner in a CPA firm has been offered the opportunity by the president and 20 per cent stockholder of an audit client, to jointly invest with him in a piece of property whose development was unrelated to the business of the audit client. Would this impair the independence of the CPA firm?

A. A partner of a CPA firm who was a joint venturer with the president of an audit client would generally appear to a third party to be not independent.

Joint investment with client manager

Q. Would independence be impaired if partners of an accounting firm owned 25 per cent of a commercial enterprise, 5 per cent of which is later acquired by the manager of a client, and the client is a regular, but small, customer of the commercial enterprise?

A. The resulting mutual ownership of stock in the commercial enterprise by members of the firm and the manager of a client would not cause

the firm to be considered lacking in independence, nor would the fact that the client is a regular customer, so long as it is not a principal customer of the enterprise.

Joint venture

Q. Several partners of an accounting firm have each invested amounts material to their net worth in a joint venture and have invited audit clients to invest with them. A client invests a material amount and asks the firm to audit a corporation, in which he also has a material investment. Would the firm be independent of the client and the corporation? Would the answer be different if the client's investment in the joint venture were not material to his net worth?

A. Investments of material amounts by a partner of a CPA firm and a client in a joint venture would cause the partner and his firm to be considered to be lacking in independence with respect to any client participants in the joint venture, and with respect to any corporation such clients control. Moreover, in this instance, the independence of the firm and its partners is further impaired because they approached the clients in a collective manner and induced them to invest in the joint venture.

A firm's independence would not necessarily be impaired if a partner were to make an occasional immaterial joint venture investment with a number of his clients. However, a number of such individual immaterial investments with any one client could cause the firm to be considered to be lacking in independence. Because joint ventures with clients could easily lead to circumstances in which independence would be impaired, the practice is discouraged and many firms have rules forbidding their partners to enter into any such relationships.

Loan to auditor guaranteed by client

Q. A firm is arranging a bank loan to secure funds needed to purchase a computer which would be used to a great extent to process one client's work. The billings from such services would not be material to the firm's gross billings. The bank has requested a co-signer on the loan

and the client has agreed to guarantee repayment. Would this arrangement impair the firm's independence?

A. The proposal creates an undesirable business relationship which would cause third parties to question the firm's independence. The firm should arrange for some other type of security for the bank.

Loan to auditor's corporation

Q. A member is president and 50 per cent stockholder of a company which is indebted to a savings and loan association on a first mortgage loan of $97,000. May he audit the savings and loan association as an independent CPA?

A. If the loan arose in the ordinary course of the savings and loan association's business, the member would not be considered to be lacking in independence.

Minority interest in affiliate accounting firm

Q. Two firms practice as XY & Co. in separate partnerships in the towns of Johnston and Bayville. The Johnston XY & Co. partnership has a minority interest yielding less than $200 annually in the Bayville XY & Co. partnership. Mr. X, who is the major partner in the Bayville XY & Co. firm, is a director of a corporation that wishes to be audited by the Johnston XY & Co. partnership. Mr. X has no individual interest in the Johnston firm. Would the Johnston partnership be considered independent in relation to the corporation?

A. Mr. X would be lacking in independence with respect to the corporation because he is one of its directors. Therefore, any of his partners would also be considered to be lacking in independence with respect to the corporation. For this reason, both the Bayville firm and its partners in Johnston would be considered not independent. Because of the similarity in the names of the two accounting firms, there is a strong likelihood that a third party would question independence of the firm; but even if the names were different, the existence of common partners would still cause both firms to be considered lacking in independence.

Nonregulated businesses

Q. Is a member considered independent with respect to audits of clients for which he has performed "write-up work" by computer?

A. A member would not be considered lacking in independence in these circumstances. However, in the case of regulated businesses the rules of agencies such as the SEC or the Federal Home Loan Bank Board, which may be more stringent, supersede the Institute's rules with respect to engagements within their jurisdiction.

Preparation of bond prospectus

Q. May the auditor of a municipality render services in connection with a municipal bond issue including the preparation of the prospectus?

A. If the data presented in the prospectus is limited to that which is objective and consistent with the audited financial data, there would not seem to be any potential conflict of interest. On the other hand, if the firm were to be so involved with the municipality that it would appear to be a part of management, or if the auditor goes beyond objective historical financial data, there could be a lack of independence in appearance and in fact.

Retired partner as director

Q. James Doe, a partner in John Doe & Co., has withdrawn from the firm after an association of several years and has become an officer and director of several corporations audited by John Doe & Co. James Doe proposes to maintain an office in the suite occupied by the firm, to receive phone calls through the firm's switchboard, and to perform services for the firm for which he would be compensated on an hourly basis. Would these activities impair the firm's independence with respect to the clients in which James Doe has an interest?

A. The proposed relationship would cause third parties to feel that James Doe was still closely associated with the firm. Accordingly, he is advised to establish an office separate from that of the accounting firm and to cease providing accounting services on a consulting or hourly basis for the firm, as long as the firm continues to audit clients of which he is an officer and director.

Retirement plan offer

Q. The auditor of a municipality has been offered the opportunity to join the municipality's retirement plan. Would such action impair his independence?

A. If the accountant accepted the "employee" designation for the purpose of entering the retirement plan, there would be a strong implication that he was not independent with respect to the municipality.

Retirement plan, pension fund

Q. A CPA's client asked him to participate in the company's pension plan for employees. It was arranged to pay part of the accountant's fee as "wages," although at no time was the CPA an employee, stockholder, officer, or director. For the first time, the CPA would be called upon to express an opinion on the company's financial statements. Would his participation in the pension plan affect his independence as auditor?

A. Participation in the client's pension plan would jeopardize the CPA's independence as auditor. The long-range implications of such participation would increase the danger of his being influenced by personal considerations. The mere designation of part of his fee as "wages" would put the accountant in a compromising position.

School board member

Q. A partner of a CPA firm serves as a member of his local school board. His firm has been asked to audit the municipality whose accounts include the school fund. Is the firm independent?

A. Even though the relationship in question is indirect, in such circumstances the firm's opinion would not be considered independent, objective, and unbiased by one who had knowledge of all the facts.

Signing client's checks

Q. A client wishes to empower his accountant to sign checks during his absence of two weeks. The records and accounts would be kept by

the company's employees. Would this procedure jeopardize the member's independence as auditor?

A. An alternate procedure is suggested. One of the client's employees could sign checks in his absence. The checkbook, however, would be in the accountant's custody, the checks to be written under his scrutiny. The proprietor would be expected to review all transactions upon his return.

Stockholder

Q. A member owns one per cent of Company Z, representing 20 per cent of his net worth. A client owns 5 per cent of Company Z, 100 per cent of Company X, and 60 per cent of Company Y, and is involved in the management of all three corporations. Would the member be considered independent with respect to Companies X and Y?

A. The member would be considered lacking in independence with respect to Company Z because of his one per cent direct financial interest. In addition, he would be considered lacking in independence with respect to Companies X and Y because of the investment of a material part of his net worth in Z jointly with a substantial owner of X and Y. Joint business ventures by CPAs and their audit clients are discouraged.

Stockholder in bank

Q. If a CPA owns stock in a bank, may he audit a common trust fund operated by the trust department of that bank?

A. Ownership of stock in a bank would constitute an indirect financial interest in a common trust fund operated by the bank. Therefore, if the auditor's financial interest is material either in relation to the bank's total assets or to the auditor's personal fortune, he would be considered not independent in expressing an opinion on the financial statements of the common trust fund.

However, even though the auditor's financial interest in the bank may be immaterial, it is conceivable that in the eyes of a third party having knowledge of all the facts, there would be some doubt as to the auditor's independence. For this reason, it is recommended that

the auditor divest himself of any financial interest in the bank prior to expressing an opinion on the financial statements of the common trust.

Stockholder in bank client

Q. Would a firm be independent if four partners own small amounts of stock in a bank client and the firm has been requested to make an audit of three of the bank's trust funds organized under the state's Union Common Trust Fund Act? Would divestiture to a relative be sufficient?

A. A prior ruling established that ownership of stock in a bank constitutes an indirect financial interest in a common trust fund operated by the bank. However, even though the partner's indirect financial interest in the bank may not be material, a third party having knowledge of all the facts may have doubts as to the auditing firm's independence. Accordingly, the auditors should divest themselves of their financial interest. Such divestiture would be adequate if the stock were transferred to a relative other than a wife or dependent child.

Stockholder in country club

Q. May a CPA audit a country club of which he is a member, when membership involves the acquisition of one share of stock in the club?

A. Such stock ownership is not considered to be a direct financial interest in the club within the meaning of the independence rule. However, the auditor should not take part in the management of the club and might have nonmembers of the club within his firm perform the audit work. The auditor's membership in the club should be disclosed in his report.

Stockholder in holding company

Q. A partner of an accounting firm owns 2 per cent of the stock of Corporation A which is a holding company owning 100 per cent of the capital stock of Corporation B and 88 per cent of the capital stock of Corporation C. The firm has been requested to audit the records

of Corporation C. Would the firm be considered lacking in independence?

A. The partner has a direct financial interest in a corporation owning 88 per cent of the stock of the proposed client, and would be considered to be lacking in independence with regard to Corporations A, B, and C.

Stockholder in small business investment company

Q. Does ownership of stock in a small business investment company represent an indirect financial interest in the enterprises which borrow funds from the SBIC? Is ownership of shares in a mutual investment fund considered an indirect financial interest in the enterprises whose stock is held by the fund?

A. In both cases a member's financial interest would be considered "indirect" under Rule 1.01, and consequently the member's independence as auditor of such clients would not be jeopardized unless the financial interest is material in relation to the client's total assets or to the member's own personal fortune.

Stockholder in stock club

Q. Is a member's independence impaired with respect to a corporation if he owns a one-tenth interest in a stock club holding 100 shares of that corporation?

A. Ownership of stock in a corporation through a stock club is considered indirect ownership, and, therefore, the effect of such ownership on independence would have to be judged by materiality. If the member's share in the stock club, which in turn owns stock in the corporation, is material to the net worth of either the member, the stock club, or the corporation, the member would be considered lacking in independence with respect to the corporation. A distinction between shares owned directly and shares owned through a club is that shares owned directly can be voted by the member as he chooses, but shares held by an investment club can be voted only as a majority decides.

Stockholder in subsidiary

Q. Would the auditor of a parent company be considered independent if he were also a stockholder in a subsidiary of the company?

A. As a stockholder of the subsidiary company, the CPA would be interested in the financial well-being of the parent company, and consequently would not be considered independent. Such a holding would be a direct financial interest, so that the question of materiality would not be a factor.

Stockholder of common stock

Q. A member owns three-tenths of one per cent of the common stock of a company he has been asked to audit. Although of minor significance at present, this holding could appreciate within a few years to a point where it could be significant to his personal net worth. Would he be independent with respect to the company?

A. Rule 1.01 states that a member will be considered not independent if he has any direct financial interest in an enterprise he audits. The member must decide whether he should retain the investment and disclaim an opinion, or dispose of his investment so as to be in a position to express an independent opinion.

Stockholder of common stock

Q. A member has been asked to express an opinion on the financial statements of a corporation. He owns five shares of the corporation's common stock. The bylaws require that a stockholder may not dispose of his holdings to nonstockholders until the stock has first been offered to stockholders of record. He has notified the secretary of his desire to sell the stock before the end of the fiscal year. The principal stockholders have deferred the decision to purchase the stock and the member fears that he will have to withdraw from the engagement, for it is unlikely that the stock can be sold before the end of the fiscal year.

May he retain his independence by placing the stock in an irrevocable trust, and by requiring a provision in the trust agreement that the dividend income and the proceeds of sale in excess of what he paid for the stock be donated to an organized charity to be selected by the trustee?

A. Assuming that in transferring his shares to an irrevocable trust the member would be divesting himself both of all voting rights in favor of an impartial trustee and of any monetary benefit in excess of the

member's cost, he would be complying with Rule 1.01 and he would no longer be considered to have a direct financial interest in the enterprise.

However, the failure of the other stockholders to purchase the shares could be interpreted as a refusal of the tender, thus making inapplicable the bylaw provision restricting alienation. It would seem then that the member could preserve his independence by selling the shares to a nonstockholder.

Stockholder of preferred stock

Q. A member, one of 30 preferred stockholders, owns 86 shares of preferred stock having a face value of $8,600 in a company he has been asked to audit. He has no vote in the corporation and no management authority. If the member must disclaim for lack of independence because of his financial interest, would he also have to mention that he did not observe inventory (which is a material item)?

A. The member would be lacking in independence because he would have, during the period of the professional engagement, a direct financial interest in the enterprise through his ownership of preferred stock. He would, therefore, be required to disclaim an opinion in accordance with the reporting standards established in SAP No. 42.

That he did not observe inventory would not have to be mentioned since his lack of independence as a public accountant would preclude any value being attributed to any audit procedure he has performed. If his examination leads him to believe the financial statements are inaccurate, he would be required by SAP No. 33 to so indicate. Unless he has reason to suspect that the statements do not fairly reflect the client's position, it would be sufficient for him to disclaim on the basis of lack of independence only.

Stock options

Q. Would the option of a member of an accounting firm to purchase stock in a firm's audit client affect the firm's independence if the option is not exercised at the end of a client's fiscal year?

A. The firm would not be considered independent with respect to the client, even if the option were not exercised at the end of the client's fiscal year. The possession of a stock option could influence an auditor

in the same way that actual ownership of the stock would, since the company would be obligated to sell the stock to him at a fixed price, and the market price of the stock could be substantially influenced by the financial statements he is auditing.

Supervisor as auditor

Q. May a member enter into contract with a township to supervise office personnel of the power company and the town on a monthly fee basis, approve vouchers for payment, prepare operating reports (monthly for the trustees and quarterly for the state comptroller), and also enter into a contract to make the annual audits and render an opinion on the financial and other statements?

A. The proposed arrangement would cause the CPA to be considered not independent.

Transfer agent

Q. A CPA serves his client both as auditor and as stock transfer agent. Is he considered independent?

A. The independence of an auditor who also serves as transfer agent would not be jeopardized.

Trust, contingent income beneficiary

Q. May an auditor be a contingent income beneficiary of a trust holding shares in an audit client?

A. If an auditor were a contingent income beneficiary of a trust holding shares in a client, his financial interest in the client would be indirect; and, if his shares in the trust were material in relation to his own or his client's net worth, his independence with respect to the client would be considered impaired.

Trust, transfer of direct interest

Q. If, during the period for which he furnishes an opinion, an auditor transfers shares he owns directly in a client to a trust of which he con-

trols neither the corpus, the income, nor the inuring benefits, would his independence be impaired?

A. If the shares were placed in a trust over which he has no operating control but which might revert to him after his opinion had been expressed, an auditor's independence would appear questionable to a third party, since a favorable report could well affect the value of the shares in question.

Trustee, co-trustee of audit client

Q. A member has been named co-executor and co-trustee under the will of a deceased client. Among the assets under his control is 20 per cent of the common stock of a company audited by his firm. The member has no financial interest in either the company or the estate other than through audit and executor fees. He expects to be discharged as co-executor but would continue as co-trustee. Could his firm retain its independence as auditors if he issued an irrevocable proxy to his co-executor or co-trustee to vote this particular stock?

A. The issuance of an irrevocable proxy would not necessarily assure the member's independence in these circumstances. It is recommended instead that he either withdraw as executor and trustee of the estate, or withdraw as independent auditor for the corporation—unless the trust were to dispose of its stock ownership in the corporation.

Trustee, co-trustee with material financial interest

Q. An accounting firm is negotiating a merger with a smaller partnership. The senior partner of the latter will not become a partner of the new firm but will serve it as a consultant to effect the orderly transfer of the clients from his former firm to the new firm. He may also refer clients to the new firm but will not otherwise participate in its activities. His compensation will be a fixed sum paid over a ten-year period and will be unrelated to future profits. Will the new partnership be considered independent with respect to an enterprise if the consultant serves as a co-trustee of an estate which has a material financial interest in the enterprise?

A. Since the consultant is not a partner of the new firm, does not participate in its activities, and does not share in its profits, the firm would not be considered lacking in independence.

Trustee of nonprofit organization

Q. A member has been appointed to the board of trustees of a small nonprofit hospital. Would this impair his independence with regard to an audit for Medicare reimbursement purposes?

A. The CPA would usually become so involved with the hospital's financial affairs that he would be considered lacking in independence under Rule 1.01. As *Ethical Standards of the Accounting Profession* explains (p. 273), "the exception made for nonprofit organizations was intended primarily to cover those situations in which a member was lending his name to a worthy cause without assuming administrative or financial responsibilities." It appears that as a director, he would be expected to determine policy matters and review certain expenditures. Therefore, the exception in Rule 1.01 would not apply to this situation.

Trustee of nonprofit organization

Q. Would the independence of an accounting firm be impaired if a partner of the firm were a member of the 60-man board of trustees of a welfare federation audited by the firm? The member would consider his post as honorary only and would not exercise his vote. The board of trustees approves the budget, the financial campaign and other general planning functions of the federation. It approves committee appointments made by the president. It may allocate some of its functions to subcommittees, such as finance, personnel, etc. However, all final decisions on matters of program policy and operations rest with the board.

A. A partner of the firm could serve as a nonvoting trustee of the federation without impairing the firm's independence, since he is only one of 60 members and since the position of trustee is more honorary than administrative. However, if the partner were appointed to the executive committee of the federation, the duties involved would no doubt be such as to jeopardize the independence of the firm with respect to the federation.

Trustee of profit-sharing plan

Q. A member who is a trustee of a profit-sharing plan makes the relalationship clear in his audit report and disclaims an opinion because of his lack of independence. He is also the auditor for the corporate client which is the sole contributor to the profit-sharing plan. Would

his relationship as trustee of the related profit-sharing plan affect his ability to express an unqualified opinion on the corporate financial statements?

A. Serving in the dual capacity of independent auditor of a corporation and trustee of the corporation's profit-sharing plan would appear to be a conflict of interest in the eyes of a third party. If the company wanted to borrow funds from its own profit-sharing plan, the auditor may be put in a vulnerable position. It may appear that his vote was being influenced by those who retain him. Another consideration is whether funds of the profit-sharing plan were invested in securities of the client. If so, there would be an obvious conflict of interest since the trustees of the plan would have control over the client's stock.

Also, if the trustee's fee is determined by the corporation's contributions to the plan, and if such contributions are determined by the income of the corporation (a figure attested to by the auditor), there would appear to be a conflict of interest in the member's serving in both capacities. In summary, it is recommended that members not serve in the dual capacity of independent auditor of a corporation and trustee of the corporation's profit-sharing plan.

Trustee of revocable living trust

Q. A member's client, the sole stockholder of a corporation, has decided to place all of his assets including the stock of his corporation into a revocable living trust. The purpose of this trust is to facilitate the passage of assets and reduce paper work upon his death. He has asked the member to serve as a co-trustee. The client will retain full powers to vote the stock and to revoke or amend the trust in any way, including the appointment of new trustees. Until the client's death, the trustee will have no actual function except to hold nominal title to the properties in the trust. If the member accepted such a co-trusteeship, would his firm be precluded from rendering an opinion on financial statements of a corporation whose stock is owned by the trust?

A. Despite the arguments that could be made in favor of the auditor's independence in such circumstances, since the member would be one of the trustees in control of the corporation, he could not occupy that position and still audit the corporation.

Circumstances could arise in which he would lose his independence if he continued to act as trustee. For example, if the trustor should become incompetent, a court might give the trustees actual control of

the property. Also, in the event of the trustor's death, the trustees would continue to hold the property until death taxes and other liabilities had been paid.

In summary, although there may be technical compliance with Rule 1.01, a third party in possession of the facts would not in such circumstances consider the auditor independent, objective, and unbiased.

Trustee of trust owning stock in client

Q. Is a member independent with respect to an audit client if he is one of three trustees of a trust owning between 2 and 3 per cent of the stock of the client?

A. The financial interest of the member in the corporation is considered to be indirect and not material, and therefore his firm is not considered lacking in independence as a result of the member's position as trustee. Since the independence rule is written in terms of appearance, the member is expected to assess his entire relationship with the trust and the client to determine whether or not he would be considered independent by a third party who had knowledge of all the facts.

Trustee of trust owning stock in client

Q. A member served as a corporate trustee of a trust which held some of the capital stock of a client. In order to conduct an audit of the client, he resigned his trusteeship prior to the beginning of the audit period, but because the two other trustees could not agree on a replacement, they did not accept the auditor's resignation. It was necessary to petition the courts to obtain a replacement satisfactory to both parties, and the court's decision was handed down nine months after the beginning of the period being audited. During that time, the member had not acted as a trustee. Is he considered to be independent?

A. An inactive trustee who perfects his resignation as a trustee before beginning the engagement and particularly one who resigns, not at the eleventh hour, but who, prior to the beginning of the year in question, initiates the steps necessary to resign, would not be prohibited by Rule 1.01 from expressing an opinion on the client's financial statements in these circumstances. If the auditor is independent in fact, the above relationship as a trustee would not give the appearance of nonindependence to one having knowledge of the facts.

Trustee of trust owning stock in client

Q. A partner of an accounting firm has been asked to become one of three trustees of a charitable trust holding preferred stock of a corporate client equal to 50 per cent of its net worth. The stock is worth several million dollars. The preferred stock, which pays a stipulated dividend, is nonvoting and carries no convertibility feature. Would the accounting firm be considered lacking in independence with respect to the corporate client?

A. The fact that the preferred stock is nonvoting does not leave a substantial holder thereof without a voice. It would seem unusual for preferred stockholders entitled to a stipulated dividend to have no rights to intervene when their stipulated dividend is unpaid over a period of time or when their rights are jeopardized by the common stockholders or the management. Under some state laws, if the corporation should pass a certain number of dividends, the preferred stock could obtain a vote. Some state laws also would seem to allow preferred stockholders certain privileges, such as information about the operations of the company, which would make more effective a threat of harassment to management. Even though the preferred stock is nonvoting, there is sufficient indirect control to impair the CPA-trustee's independence.

Trustee of trust owning stock in client

Q. An accounting firm wishes to admit to partnership a CPA who owns stock in a corporation audited by the accounting firm and is a trustee of a trust holding stock in the corporation. The CPA plans to dispose of his personal holdings. Would his admission to partnership impair the independence of the firm with respect to the corporation?

A. In order for the accounting firm to retain its independence, the CPA must not only dispose of his stock in the client company but he must also resign his position as trustee or the trust would have to dispose of its stock in the client corporation. As long as a member has authority to vote or sell stock in a client company he (or his firm) cannot be considered independent with respect to that enterprise.

Confidential Relationship

Computer processing of clients' returns

Q. May a member make use of an outside service bureau for the processing of clients' tax returns? The CPA firm would control the input of information and the computer service would perform the mathematical computations and print the return. Is there any violation of the confidential relationship in the fact that client information leaves the CPA's office?

A. A member who utilizes outside services to process tax returns or other client information may not delegate his responsibility to assure the confidentiality of such information. He must take all necessary precautions to be sure that the use of outside services does not result in the release of confidential information. He should also consider the desirability of putting the client on notice when outside services are to be used.

Disclosure of client subterfuge

Q. A CPA firm was engaged to audit the records of a company which was seeking credit from a local bank. Client and accountant disagreed on the amount of profit which should be shown as earned on a particular project. In the accountant's judgment, the client wished to overstate the profit by about $50,000. After being unable to reconcile the conflict, the accountants rendered their report and subsequently learned that another firm of CPAs had been engaged to make a second audit.

The bank, which had a high opinion of the integrity and competence of the accounting firm first engaged, knew that this firm had been engaged to make an audit and questioned the firm as to its dismissal.

The accountants did not feel that the circumstances warranted their remaining silent about what appeared to them to be a subterfuge in order to show a better financial position—particularly when such a maneuver would be injurious to their reputation—and freely discussed the situation with the bank. Did the firm act properly?

A. The members were not absolved from their responsibility to preserve the confidential relationship with their client. It is suggested that they may have been unduly pessimistic as to the reaction of the local bank. If the bank is aware that the firm submitted a report to the client who then employed a second firm to reaudit the same period, it might conclude that the report certified by the second firm presented a more favorable and less conservative picture. Unless the banker is interested enough to request the client to show him the original audit report or to ask permission to discuss the problem with the original accountant, the issue cannot be discussed without violating Rule 1.03. In reaching this decision, the matter was stated as follows: "The accountant is in the unhappy position of having his lips sealed by the rule of confidentiality. At one time or other almost all members of our profession get in this unpleasant position, but that is simply one of the hazards of being a CPA."

Distribution of client information to trade associations

Q. A CPA firm has been requested by a trade association to supply profit and loss percentages taken from the reports of the accountants' clients. The association would distribute them to its members. May the CPA firm comply with the request?

A. There would be no violation if the firm had the clients' permission to distribute the figures. The information should be marked as submitted with permission of the clients of the CPA firm.

Information to successor accountant about tax return irregularities

Q. A member withdrew from an engagement on discovering irregularities in his client's tax return. May he reveal to the successor accountant why the relationship was terminated?

A. The member should not reveal the condition of the client's records. He may state that he sent his former client a letter of withdrawal, but he

may not give any details unless the successor accountant obtains the client's consent. If the client refuses such consent, the successor is, at least, on notice of some irregularity.

Prior client relationship

Q. An accounting firm was replaced after 20 years as auditors of an international union. The firm was then retained by certain members of local unions who brought suit against the international union, charging misuse of funds, mismanagement, and so forth. The accounting firm was asked to examine the records of the international union for a period which included part of the period during which it served as the international's auditors. Would there be any violation in the special examination as a result of the former client relationship?

A. There appears to be such a serious conflict of interest, and question as to the confidentiality of working papers that the firm should not accept the engagement.

Prospective client's confidence

Q. A member was approached by a prospective client who was an employee of the client. The employee disclosed that key personnel of that organization were planning to form their own corporation to compete with their employer. Is the member obliged to preserve the employee's confidence, or may he reveal the plan to his client?

A. The member has a moral obligation to preserve a prospective client's confidence except in a situation where this conflicts with his obligation to a prior existing client. The member would not be in violation of Rule 1.03 if he revealed the plan to his client.

Records retention agency

Q. May a member use a records retention agency to store his clients' records? The records retention agency affords various degrees of security, such as locked or sealed containers and locked areas.

A. There is no objection to the use of such a records center. However, responsibility for preserving the confidential nature of the records

would rest with the accountant. He should probably visit the center and decide what is appropriate for his particular situation.

Reproducing public reports

Q. A member is preparing an audit case for the use of university students. Would it be ethical for him to reproduce actual audit reports which became public record after being submitted as evidence in court?

A. The fact that certain reports may have been submitted as evidence does not mean that the client no longer considers the information to be confidential. Therefore, the client's permission should be obtained before the CPA duplicates the information.

Retention of records

Q. A member is engaged in a fee dispute with his client. He has in his possession various client records and wishes to withhold them until such time as the client satisfies his bill. He notes that statutes of the state in which he practices specifically grant him a lien on all client records in his possession until his fee is paid. Would such action violate the Code?

A. Retention of client records after a demand is made for them is an act discreditable to the profession in violation of Rule 1.02 of the Code. The fact that the law allows the member to retain the records to enforce payment does not change the ethical standard. Ethical codes are often more restrictive than the standard of behavior permissible under law.

Revealing client information to competitors

Q. Is there any impropriety in the following circumstances: Municipalities in a particular state enforce and collect a personal property tax on business inventories, fixtures and equipment, and machinery. Several municipalities retain a firm of CPAs which examines the books and records of all businesses to be sure the proper amount has been declared. In the course of its engagement, the CPA firm will examine sales, purchases, gross profit percentages and inventories, as well as fixed asset accounts. A member objects to these procedures on the

ground that information gathered from the books and records of his clients could be inadvertently conveyed to competitors by employees of the CPA firm doing the audit. Is he correct?

A. It would not be improper for a CPA firm to perform such services. It should be emphasized to everyone concerned that CPA firms are prohibited under the profession's Code from revealing any confidential information obtained in their professional capacity.

Revealing names of employer's clients

Q. A staff member wishes to submit his resume to another firm from which he hopes to obtain employment. May he include as part of his experience the names of companies for which he performed audits for his present firm?

A. The mere engagement of an accounting firm is often a confidential matter between accountant and client. However, if the company issues reports that are available to the public and the employer is well known as the regular auditor, there would be no objection to revealing the fact that the member had served on that assignment.

Tax evasion

Q. A CPA enrolled to practice before the Treasury Department discovers that his client's records materially understate the net income and did so during the preceding year when the accountant also audited them and prepared and filed the corporation's tax returns. The CPA wishes to prepare amended returns for the prior year and to see that the books are corrected for the current year. He has brought the tax problem to the attention of the client, who is unwilling to take corrective measures.

Should the member report the matter to the Treasury Department, notwithstanding the confidential relationship existing between CPA and client?

A. Neither Treasury Department regulations nor the Institute's rules require that a member breach the confidential relationship in such a circumstance. He should write to the client bringing all relevant facts to his attention, even if he has previously done so orally, and urge that amended returns be filed. If the client still refuses, the accountant

should withdraw from the engagement and in his letter of resignation specify the reasons for his action.

One of the important issues involved is that of legal responsibility, and the accountant should consult with his attorney.

Violation of subordination agreement

Q. An accountant has a corporate client whose principal stockholder agreed to subordinate an $11,000 loan to the corporation for the benefit of a bank which loaned the corporation $8,000. Subsequent to the last audited period, the accountant learned that the stockholder had violated the agreement by withdrawing $6,000 from the corporation against the loan. Should the accountant disclose this information to the lending bank even though he is not presently called upon to report on the corporation's financial statements?

A. The accountant is under no obligation to divulge this information to the bank unless there was an agreement for him to do so at the time of the loan. However, the accountant should consult with his lawyer regarding his legal obligation. He should also bring this to the attention of the stockholder and suggest that disclosure be made. When the financial statements are prepared, however, the information should be disclosed in a footnote to the balance sheet.

Contingent Fees

Based on sales

Q. A member has been requested to base his fee on the number of units a client has sold in his business. Is such a fee arrangement prohibited by Rule 1.04?

A. As long as the results of the member's services have no effect on the client's sales, the proposed fee arrangement would not be in violation of Rule 1.04. The contingent fee arrangement that is prohibited by the rule is one in which the benefits obtained from a client rest heavily on the findings of the accountant.

Bond issue

Q. Is it proper for a member to determine his fee for services rendered in connection with a bond issue as a percentage of the total amount of the bond issue?

A. The accountant's fee for services rendered in connection with a bond issue should not be based upon the percentage of the total amount of the issue since that amount is often, in part, determined by the findings of the accountant. Furthermore, the receipt of a fee by an accountant in connection with such work should not be contingent upon whether or not the bond issue goes through.

The accountant's fee should be related to services rendered and should not be determined by his findings or the results of his findings.

Client unable to pay standard fees

Q. An accounting firm performs administrative accounting functions for a newly formed credit union and prepares unaudited financial statements for the use of the client's management. The credit union is unable to afford the standard per diem rates the firm normally charges bookkeeping clients and has suggested that the fee be set as some token minimum and that the maximum be a percentage of interest collected each month. Since much of the firm's service consists of receiving and recording the payments (neither granting loans nor enforcing collection), a percentage-of-interest-collected fee does not appear to be a fee contingent on "findings" or "results," but a fee measured by activity and by available funds with which to pay the fee (interest collected). Would such an arrangement violate Rule 1.04?

A. A member may charge whatever fee he believes to be appropriate, and the client's ability to pay may properly be taken into account. It was suggested that the desired result might best be achieved by charging per diem rates less than those normally charged, and, since the time required for the performance of services would be related to the number of transactions taking place, the total fee would still fluctuate with the financial activity of the client.

Finder's fee

Q. May a member act as a "finder" for a client in the acquisition of another company? That is, would the occupation of "finder" be considered incompatible or inconsistent with public accounting? If he may serve as "finder" would he be in violation of Rule 1.04 by charging a fee contingent upon the acquisition, and based on a percentage of the acquisition price?

A. The occupation of "finder" is not incompatible or inconsistent with public accounting. However, the fee arrangement is not approved. The accounting firm should charge a fee commensurate with the service performed, though such fee could be in excess of the usual per diem rates for regular auditing and accounting services.

Legal witness

Q. May a member, as an expert witness in a damage suit, receive compensation based on the amount awarded the plaintiff?

A. Such an agreement would violate Rule 1.04, prohibiting contingent fees. Compensation for expert testimony may be at a per diem rate or at a fixed sum previously agreed upon.

Merger

Q. An accounting firm serves as independent accountant for two companies who have agreed that one will purchase the other for its fair market value in a range as determined by the accountants in consultation with investment experts. The sale will not take place if the market value is found to be less than one specified sum or more than another. A fee of $100,000 will be paid to the firm for its services only if a sale is consummated. Is this arrangement proper?

A. The accounting firm could hardly be viewed as objective in the circumstances outlined; the fee arrangement violates Rule 1.04 since the firm would not receive the fee unless the sale was made and the sale is contingent upon the firm's determination of the market value of the seller. The nature of the engagement is not regarded as a violation of the independence rule, even though it is felt there would be practical difficulties in evaluating the assets of the two companies.

Mortgage commitment

Q. A member provides accounting services in connection with construction projects financed primarily by FHA-insured mortgages. His fee for such services is determined as a fixed percentage of the mortgage commitment finally granted by FHA. Prior to such commitment the member would have offered advisory accounting services, and if no commitment was granted, no fee would be charged for advisory services. Is this arrangement ethical?

A. The prohibition in Rule 1.04 applies to contingent fees, not necessarily to percentage fees. However, in this instance, the amount of the FHA commitment would depend on the applicant's financial position as shown in the financial statements prepared by the accountant. Therefore, the amount of the loan would be contingent on the findings or results of the accountant's services. It would therefore be preferable for the member to set his fee for the advisory services at a per diem rate which would bear a close relation to the services rendered.

Tax liability

Q. May a member base his fee for preparing a tax return on how much in taxes he can "save" for his client?

A. Basing a fee for preparing a tax return on the amount "saved" in taxes would be a violation of Rule 1.04. A properly prepared return results in a proper tax liability, and there is no basis for computing a saving. To make a fee contingent upon the amount of taxes "saved" presumes a tax liability has been established which an accountant is attempting to reduce, whereas all persons concerned with the preparation of a tax return should attempt to determine only the correct tax liability. A member who computes his fee in the manner suggested in the question would also be in violation of Rule 1.02.

Technical Standards

Auditing and Reporting—Rules 2.02 and 2.03

Auditing and Reporting

Association of name

Q. A member has been engaged to confirm or otherwise ascertain the assets of an insurance company. He would certify the existence of mortgage loans receivable, general rents, number of shares counted, and cash on deposit. Is this an association of his name with "statements purporting to show financial position or results of operations" so as to require the expression or disclaimer of opinion under Rule 2.03? May a special report resulting from this limited examination of "financial statements" be issued without disclaimer?

A. If the report purported to be on complete financial statements, a disclaimer of opinion would be required. However, this is a special report which contains financial statements so limited in content as not to appear to reflect the "financial position" or "results of operations" of the enterprise. The certification as to the existence of the assets checked clearly indicates the degree of responsibility taken. Therefore, it would not appear that any further opinion or disclaimer is necessary under the Code.

Association of name with unaudited statements

Q. A member is a minority stockholder, officer, and director of a corporation for which his firm performs management and accounting services. As a corporate officer, the member has prepared financial statements for the corporation for presentation to a bank. The accounting firm was paid for the member's services in connection with the preparation of the statements, and the bank was made aware that the statements were "company" statements and not "certified." What are the ethical considerations?

A. Since the financial statements in question were offered to the bank with the understanding that they were company statements and that no audit had been performed, and since the accounting firm's name did not appear on them, Rule 1.01 would not be involved since it prohibits a member only from expressing an opinion as an independent CPA on financial statements when he is lacking in independence.

SAP No. 38 provides that when a CPA submits to his client or another, with or without a covering letter, unaudited financial statements which he has prepared, he is deemed to be associated with the statements, and this association is deemed to exist even though the CPA does not append his name to the financial statements.

When a member is associated with financial statements, he is expected to disclaim an opinion. Therefore, the member, as an officer, can prepare the statements for the corporation, but because he is also engaged in public practice, he should issue at the same time a disclaimer of opinion since he is considered to be associated with them.

Bond issue

Q. An auditor of a municipality has been engaged to assist in the preparation of a prospectus that will be used in connection with a bond issue. May the member include in the prospectus statistics and background information selected from his audit report if he issues a disclaimer in connection with the use of such information?

A. The Fourth Reporting Standard (see SAP No. 33) would require that an auditor make clear the character of the examination he has performed and the degree of responsibility he is taking when his name is associated with financial statements. The member should recognize the added responsibility he may be assuming in expressing an opinion on an incomplete financial presentation. It is possible that he would have to make a more extensive examination of such items than that which would be required if he were expressing an opinion on financial statements taken as a whole. In this connection the member should refer to Statement on Auditing Procedure No. 33, chapter 13, paragraphs 9 and 10 and chapter 10, paragraphs 22-25.

Confirmation notice for collecting accounts

Q. May a member send out confirmation notices for the purpose of collecting a client's accounts?

A. The use of confirmation notices should be restricted to their technical purposes, although there can be no criticism of the accountant if a legitimate notice to confirm accounts receivable happens to result in payment of an account. The use of accountants' confirmation notices for the sole purpose of collecting a client's accounts, and not in connection with an audit or examination, is improper.

Confirmation procedure performed by others

Q. May a member make use of an outside mailing service for the confirmation of receivables and payables? The service would mail requests for confirmation on behalf of accounting firms. The returned confirmation would be removed from the envelope and given to the public accounting firm.

A. The member would be in violation of Rule 2.01 if he subscribed to such a service, since he would be relying for an important feature of his examination upon the work of another upon whom he had no right to rely.

Forecast

Q. Is it proper for an Institute member to prepare a brochure in connection with a bond issue of a school building corporation which will contain projected cost and amortization schedules and other financial statements? Is it proper for the member's name to appear on the cover of such a brochure?

A. It is not improper for a member to prepare such a brochure provided he is competent to do so. However, should his name appear on the cover of the brochure or be associated with the financial projections in any way, he would be required by Rule 2.04, as interpreted by Opinion No. 10, to disclose fully "the source of information used, or the major assumptions made, in the preparation of the statements and analyses, the character of the work performed . . ., and the degree of responsibility he is taking." In addition, where such a brochure contains audited financial statements, Rule 2.03 would require him to express or disclaim an opinion. If the brochure contains financial statements to which auditing procedures have not been applied, Statement on Auditing Procedure No. 38 would require that the member issue a disclaimer of opinion.

Letterhead

Q. A member performs accounting services on a gratis basis for a private club of which he is treasurer. Would it be proper for him to issue financial statements in connection with his accounting services for the club on his firm letterhead with a disclaimer for lack of independence?

A. The member may issue financial statements on the stationery of the club under his name as treasurer but should not use the stationery of his accounting firm for such a purpose even though he disclaims an opinion for lack of independence.

It would also be preferable for the member not to use his CPA title with his signature as treasurer since its appearance could cause confusion in the minds of those who received the reports. However, should he include it, he would be obliged by Statement on Auditing Procedure No. 38 to disclaim an opinion and mark each page of the financial statements as unaudited.

Unaudited statements

Q. A member was engaged in one fiscal year to prepare unaudited statements. He was engaged by the same client in the following fiscal year to perform an audit in accordance with generally accepted auditing standards. May he render an unqualified opinion as to the fairness of the income statement and balance sheet covering the two fiscal years?

A. In order to express an unqualified opinion on the income statement, the member would be obliged to follow such auditing procedures as would assure him of the consistency of the accounting principles employed during the current and the preceding fiscal years. If the client's financial statements for the preceding year were not adequate for the member to form such an opinion and the account balances for the beginning of the current year materially affected current operating results, the member, as independent auditor, would be unable to express an opinion on the current year's income statement.

If he did not observe the taking of inventories and must satisfy himself as to his client's representations about inventories by applying other auditing procedures, he should mention in the scope paragraph of his report the omission of customary procedures even though he has been satisfied by other auditing procedures. If he is not able to satisfy himself by applying other auditing procedures, he should indicate that clearly in the scope paragraph of his report.

Promotional Practices

Advertising—Rule 3.01

Solicitation—Rule 3.02

Commissions (Fee Sharing)—Rule 3.04

Advertising

Advertising on tax broadcast

Q. Is it proper for members of the Institute to participate during tax season in commercially sponsored radio and/or television programs on tax information?

A. Provided advertising on tax information programs is on behalf of the sponsors and not the individuals who appear on the programs (or their firms), it is not improper for members to participate in such programs.

Alumni magazine announcement

Q. May a member announce in his college alumni magazine that he has opened offices as "an Accountant and Tax Consultant"?

A. Alumni magazines serve a special purpose, and announcement in them that an alumnus has entered into practice is not considered improper advertising. However, the designation of the specialty "Tax Consultant" does not serve to further the purpose of the magazine and is clearly prohibited by Opinion No. 5.

Brochure showing use of equipment

Q. A computer manufacturer wishes to publish a series of brochures showing the use made of its equipment by individual CPA firms. Each booklet would feature a specific application by a particular firm. Would such a program violate Rule 3.01?

A. If the brochures are prepared so that there is no glorification of the firm's accomplishments, and their distribution is limited to other practitioners, there would be no violation of the advertising rule.

Business card on newsletter

Q. Would a member be prohibited by Opinion No. 1 from stapling or paper-clipping his business card to a newsletter prepared by an outside agency?

A. If a member stapled or clipped his business card to a newsletter preprepared by an outside agency, it would be equivalent to imprinting his name on the newsletter and would, therefore, be prohibited by Opinion No. 1.

Charitable contribution

Q. Is it permissible for the name of a CPA firm to appear on a list of donors to a charity?

A. CPA firms that contribute to charities should not be identified on lists of donors. Institute members who contribute to charitable or civic organizations may be identified by their individual names on lists of donors but should not be identified by firm or professional title.

Circular for correspondent services

Q. A group of local CPA firms wishes to prepare a circular and insert classified advertisements in selected state society publications to inform out-of-state CPAs of the existence of this group and its availability for correspondent services. Would there be objection to this plan?

A. There is no objection to this as long as the advertisements do not contain the name of any CPA or CPA firm, since all state CPA societies have in their membership nonpracticing CPAs. Such advertisements should carry only a box number for reply. Any mailing of circulars would have to be limited to practitioners.

Computer print-out

Q. An accounting firm has prepared a computer program for one of its clients which consists of a projection of the tax effects of certain real estate investments the client is offering to its customers. The client has preprinted, on the program print-out sheets, a legend indicating that the program was prepared by the firm. Is it proper for the name of the accounting firm to appear on the ledger sheets which are widely distributed by the client to its customers?

A. An accounting firm should not permit its name to be used to promote a commercial product of a client. In addition, use of the firm's name in this instance could lend an unwarranted credibility to the projection.

Congratulatory message

Q. A member firm has been requested to buy space, in the form of a congratulatory message, in the printed program of a club's charity dance. May the firm's name be included in the message without title, address or telephone number?

A. Even though no title is included, the appearance of the firm name might have the effect of advertising. Consequently, it is recommended that the firm use the legend "Compliments of a friend."

Copyright for wheel computer and tax withholding tables

Q. A member has designed and copyrighted a wheel computer for the computation of lapsed time. If patent and copyright laws require that the name of the person to whom the copyright or patent is issued appear on the item, may he also show his CPA title?

The member has also designed a set of tax withholding tables which will be copyrighted. Can he use his title for this purpose and can he market the tables by direct mail from his office under a trade name?

A. Opinion No. 4 applies, and it would be permissible for the member to use his CPA title on both the wheel computer and the tax withholding tables. However, the use of the CPA title places restrictions on the manner in which the items can be promoted. Advertising material must, therefore, be in good taste and should not show the

practitioner's office address. This is to avoid the danger of "feeding" the professional practice. It is also strongly recommended that the items be marketed through an outside agency separate from the accounting practice.

Course instructor

Q. What responsibility does a member have for the information included in advertising material used to promote an adult education tax course which he has been asked to conduct?

A. He has the same responsibility that the author of an article has for the publisher's promotional efforts (see Opinion No. 4). It is of value to prospective students to know the instructor's background—degrees he holds, professional society affiliations, and the name of his firm. However, the member has the responsibility to ascertain that all promotional efforts are within the bounds of professional dignity.

Course promotional circular

Q. Two practitioners who are establishing a course in federal income taxation wish to send circulars soliciting enrollments. May they use their names and professional designation in these mailings?

A. Yes, but they should not show their firm's business address on the letterhead of the course. In fact, all activities of the course should be clearly distinguished from the members' accounting practice.

CPA-author credits

Q. What information may appear on the cover of a book written by a member?

A. It would be improper for a member to be identified on the cover of a hard-cover book by CPA title and firm affiliation, even if he is the sole author of the book. It would be permissible for such information to appear in the front matter of the book.

When a member is the author of a work published in a soft cover, where the normal publishing convention is to show more information

than merely the author's name, it would not be inappropriate for the CPA title and firm affiliation of the member to appear on the cover.

Where authorship is "in collaboration with" or "in association with" persons outside his firm, the firm name should not appear on the cover.

CPA-author of book review

Q. A member who has been requested by a publisher to review a tax record and travel expense booklet submits a favorable review of the booklet. Would it be proper for him to permit the publisher to reproduce his letter, which was written on the member's letterhead, and distribute it as part of the sales promotion for the booklet?

A. The use of a member's name in a commercial venture of this nature is of questionable taste, and therefore, he should not acquiesce in the undertaking. However, he may permit the use of such an endorsement in a mailing limited to practitioners.

CPA-authored articles

Q. A member has been asked to deliver a paper before a meeting of a trade association. In his speech he refers to other studies prepared by his firm which relate to the subject under discussion. May he distribute copies of his speech at the meeting? May he distribute copies of studies prepared by his firm or make such studies available at the meeting? All studies contain a dignified reference to the authors and their firm affiliation.

A. A member may distribute copies of his speech to those attending the meeting as well as copies of studies or other materials prepared by his firm which are directly related to the subject of the speech. He may comply with requests after the meeting for such studies and other material. (See Opinion No. 21.)

CPA title, controller of bank

Q. A member who is *not in public practice* is controller of a bank. May he permit the bank to use his CPA title on bank stationery and in paid advertisements listing the officers and directors of the bank?

A. The use of the CPA title on bank stationery by a nonpractitioner is entirely proper. It would also be proper for the CPA title of the member to appear in paid advertisements of the bank (which are in good taste) that list the officers and directors.

CPA title in bank ad

Q. A practicing member is an officer and a director of a bank. May his name and his CPA title appear in a list of the directors placed in a newspaper ad when the bank publishes its statement of condition in accordance with state law?

A. The member may show the letters "CPA" after his name on the bank's stationery. However, it would not be desirable for such designation to appear on material advertising the bank in newspapers or on billboards. Inclusion of the practitioner's name and professional designation might result in as much advertising for him as for the bank.

CPA title for multiple jurisdictions on letterhead

Q. Is it objectionable for a member to show on his letterhead that he holds a certificate from more than one jurisdiction?

A. While the listing by a member on his letterhead of the jurisdictions in which he is licensed to practice is not a violation of the Code, such listing is in bad taste unless (1) it is in accordance with local custom or (2) experience indicates that such a listing is needed to answer questions about the member's right to practice in the listed jurisdictions.

CPA title imprinted on business checks

Q. Would there be any impropriety in a member's having his name and the words "Certified Public Accountant" imprinted on his business checks?

A. There is no objection to the use of such designation on the checks of a practicing accountant, since they go only to persons with whom the accountant has some business relationship.

CPA title imprinted on personal checks

Q. A member has his name and professional designation imprinted on personal checks. Since the account is maintained jointly with his wife, her name is also imprinted on the checks. Is this ethical?

A. It is not appropriate for members to use their professional designation on personal checks or other documents which bear no relation to their professional practice. Members are encouraged to use the CPA designation—but primarily on occasions where their professional qualifications have some relationship to the material with which their names are associated.

CPA title in campaign for school board membership

Q. A member intends to file for election to a local school board. May he use his CPA title in campaign literature?

A. A member might properly substantiate his claim of worthiness for public office by using his professional designation on stationery, campaign cards, and window posters in connection with his campaign.

CPA title in lecture ad

Q. A member, not in public practice, is employed as an account executive with an investment firm and delivers investment lectures which are announced in press releases in local newspapers. May he use his CPA title in the newspaper announcements?

A. A member who is not in public practice and who is not engaged in an occupation in which he performs a service of a type performed by public accountants may use his CPA title in announcements of lectures which are of an educational nature. Any press release should be in good taste.

CPA title in political endorsement

Q. A member has been asked to write to other practitioners a letter of political endorsement on his CPA stationery. May he do so?

A. Issuance of such a letter would constitute neither solicitation nor improper advertising so long as distribution is limited to other practitioners. Members are encouraged to take an active part in all types of civic affairs, including politics. However, the member is responsible for the ultimate distribution of all letters of this type and distribution must be controlled so that such material does not fall into the hands of nonpractitioners or clients of other CPAs.

CPA title in speaker's qualifications

Q. May a member's name, professional designation, and firm affiliation be given in an advertisement to promote attendance at courses or meetings attended by nonpractitioners at which the member is an instructor or speaker?

A. The principles given in Opinion No. 4, although relating to the authorship of articles and books, would also apply to members who are instructors or speakers before mixed groups. That is, background information about the author may be given, but he is responsible for seeing to it that the promotional material keeps within the bounds of professional dignity.

CPA title of speaker named in tax forum ad

Q. An advertisement for a tax forum conducted by a securities firm listed an Institute member among the lecturers, showing his professional designation and firm affiliation. Is this a violation of the Code?

A. There is no violation of the Code in this advertisement, since the CPA appears to have a reputation in the tax field and is in the same position as an author whose book is advertised by his publisher.

CPA title on agency letterhead

Q. A member has been appointed national campaign chairman for an international, nonsectarian, nonprofit agency. May his name, together with his CPA title, be shown on the agency's letterhead?

A. There is no objection to this use of the CPA title. In fact, its use under such circumstances is considered to be good for the profession

as a whole. However, the member's firm affiliation should not be shown.

CPA title on employment agency letterhead

Q. A nonpracticing member established an employment agency for accountants. His stationery carries his CPA title. Is this a violation of the Code?

A. There would be no violation since the member is not in the practice of public accounting.

CPA title on jewelry

Q. From the letters "CPA" a member has fashioned a stylized jewelry piece that may be worn as a tie tack, pin, or cufflink. May he sell the jewelry and may he or a nonpractitioner wear it? If he may sell it, may he carry in his advertisement "AICPA approved," or "not considered advertising by AICPA," or "does not breach AICPA Code of Ethics"?

A. There would be no objection to a member selling the stylized CPA jewelry, nor would it be objectionable for a CPA or non-CPA to wear it. However, since the Institute does not endorse commercial products, it would be inappropriate for the member, in marketing the jewelry, to carry in his advertisement any of the above designations.

CPA title on public official's match folders

Q. After election to public office, a CPA continued to maintain his accounting practice. Thereafter he authorized distribution of match folders bearing the legend: "Drive Safely," together with his name, professional designation, and state office. Is this a violation?

A. CPAs are encouraged to run for public office and to use their professional designation in campaign literature. However, if such a CPA continues to maintain a public accounting practice it is improper for him to use his public office to advertise his professional services or attainments.

CPA title on research reports

Q. May a member, not in public practice, who is employed as a stock research analyst use his CPA title on his business cards and research reports?

A. The member may use his CPA title on his business cards since he is not in public practice. However, he should not use his CPA title on his stock research reports since his CPA title might lend unwarranted creditability to the information the reports contain.

Data processing program ad in technical publications

Q. An accounting firm wishes to advertise in technical publications a data processing program it has developed. The ad would show a telephone number, address, or box number, but the firm name would not appear. Would Rule 3.01 permit such an ad?

A. Since computer programming is a type of professional service offered by many CPA firms, and the Code of Professional Ethics applies to all services of a type performed by public accountants, a member would not be permitted to advertise the availability of such services, even if the firm name does not appear. However, Opinion No. 7 would permit such services to be offered in letter form to other practitioners.

Directories in elevator

Q. An accounting firm, which occupies four floors of a building housing other general business tenants, designates the departments located on each floor on illuminated floor directories in the elevator cars. These elevator floor designations read: "Management Services Department," "Audit Managers," "Tax Department," etc. Is this proper?

A. Because the firm occupies four floors of a building, each with its own reception area, and desires to direct visitors to the appropriate floor, the designation of specialized services as described is not a violation of Opinion No. 11.

Directory, alphabetical

Q. May a firm whose title consists of a first name and a surname list itself in an alphabetical directory under both the first letter of its first

name and first letter of its surname? May it do this in the classified directory as well?

A. Rule 3.01 and Opinion No. 11 specifically prohibit more than one listing of any nature in a classified telephone directory. A member firm, on the other hand, may have more than one listing in an alphabetical directory. The restrictions in Opinion No. 11, Section 2, would be applicable only to classified directories.

Directory, chamber of commerce

Q. May CPAs who are members of a local chamber of commerce have their names listed in the classified section of the membership directory? The directory, entitled "Buyers' Guide," is circulated extensively.

A. Section 2c of Opinion No. 11 permits this type of listing provided that the names of all members of the chamber or association appear and listings are not obtained by the payment of a special fee. CPAs should not be listed in a classified directory of a specialized trade association when the listing would imply particular proficiency in the type of business involved.

Directory, club membership

Q. A section of a service club directory has carried the caption "Certified Public Accountant" for many years. Membership in the club is limited to one person in any particular occupation. The club now seeks to distinguish the persons listed beneath that caption by including them in two separate sections entitled "CPA—Local" and "CPA—National." Are these distinctions proper?

A. The proposed qualification of the title "Certified Public Accountant" constitutes an indication of specialty prohibited by paragraph 1 of Opinion No. 11. No such status as "National" Certified Public Accountant exists; all certificates are local in nature since they are issued by individual states. Therefore, the designation proposed would describe the scope of the accountant's practice, not his status.

Directory listing, bank auditors

Q. A publisher wishes to compile a directory list of CPAs who do bank accounting or auditing work, or who give tax advice or prepare tax

returns for banks. Would it be proper for a member to be listed in such a directory?

A. Such a listing would constitute advertising of professional services or attainments. The listing would violate the principle that a member may not carry out through others that which he is prohibited from doing directly (See Opinion No. 2). It would also represent an indication of specialty, which is prohibited by Opinion No. 11.

Directory listing, change in telephone number announcements

Q. A member states that there will be a change in his telephone number—both exchange and number will be different. The change is not a general one and does not affect everyone in the locality. Would it be permissible to insert a card in the local newspaper announcing this change?

A. It would be a violation of Rule 3.01 to place a notice in the local press concerning the change in telephone number. The member would be permitted to send a notice to clients currently served and to lawyers and bankers with whom professional contacts are maintained.

Directory listing, fraternity

Q. May a member be listed under the caption "Accountant" in a directory published by a national fraternity of which he is a member? There is an extra charge for such a listing.

A. While Opinion No. 11 does permit listings in membership directories, a paid listing in a fraternity directory would be improper. Opinion No. 11 applies to complete listings of all members of the association in question. Listings obtained by the payment of special fee are considered to be advertising.

Directory listing, "Lawyer—CPA—Tax Attorney"

Q. May a member who is also a lawyer list himself in the certified public accountant section of the yellow pages as a "Tax Attorney"? May he have a similar listing under the attorney section of the classified telephone directory?

A. Rule 3.01 prohibits the listing of the same name in more than one place in a classified directory. The prohibition against multiple listings is interpreted to apply primarily to listings indicating a type of accounting service. The prohibition in question should not prevent a member, who is also a lawyer, from being listed under both the CPA section and the lawyer section of the classified directory.

In the present instance, however, it was decided that the designation "Tax Attorney" would be a violation of Opinion No. 11, in that it associates a member's name with a designation indicating the special skills he possesses or the particular services which he is prepared to render. The title in question is also held to be a violation of Opinion No. 5 and the "Statement of Principles Relating to Practice in the Field of Federal Income Taxation," promulgated in 1967 by the National Conference of Lawyers and Certified Public Accountants.

Directory listing, membership designation

Q. May a member use the designation "Member, American Institute of Certified Public Accountants" in directory listings?

A. No. Use of such a designation would tend to differentiate members from others listed, in violation of Rule 3.01 and Opinion No. 11.

Directory listing, multiple

Q. A member, requesting clarification of Section 2a(2) of Opinion No. 11, poses the following questions:

1. The partnership of Smith and Jones consists of Mr. Smith, a CPA, and Mr. Jones, a public accountant. If the partnership name is listed in the yellow pages, may Mr. Smith also have his name listed individually under "Accountants—Certified Public"?
2. If a CPA partnership is listed in the yellow pages of the telephone directory under "Accountants—Certified Public," may a partner, whose name appears in the partnership name, also list his name separately under "Accountants—Certified Public"?
3. May a CPA partner list his name separately under "Accountants—Certified Public," if his name is not part of the partnership name which is listed under "Accountants—Certified Public"?

A. Rule 3.01 and Opinion No. 11 were not intended to prevent such listings. The answer to all three questions, therefore, is yes.

Directory listing, nonpartner associates' names

Q. May nonpartner associates of CPA firms be listed in classified directories under their own names, using the firm's phone number but not mentioning the firm name?

A. Nonpartner associates of CPA firms, who are representing themselves as CPAs or Public Accountants, may be listed in classified directories under the appropriate category in their own names, using the firm phone number but not mentioning the firm name.

Directory listing, partners' names

Q. The listing of a firm name in the yellow pages of the telephone directory is followed immediately by the name of each partner and staff member. Is this consistent with Rule 3.01 and Opinion No. 11?

A. It is a violation of Rule 3.01 to list under a firm's name in a classified directory all CPAs associated with the firm. Such a listing represents a "form of display . . . which differentiates it from other listings in the same directory." Also, readers might be misled to believe that all CPAs in the listings are partners of the firm. However, there is no objection to the listing of each CPA alphabetically in classified directories without reference to firm affiliation.

Directory listings, white pages

Q. May a CPA's firm affiliation be shown after his name in the white pages of the telephone directory?

A. It would be better to omit reference to a firm name in the white pages of the phone directory. A common type of listing is to show the member's name, followed by the title "CPA," the address and telephone number of his office, and immediately thereunder the word "residence," with his home address and telephone number.

Directory, trade association

Q. A member became an associate member of a trade association and as a consequence his firm name was listed under the heading "Account-

ants" on a membership letter distributed by the association. The letter carries the legend: "We urge you to patronize our associate members listed on the back of this letter." Is this a violation?

A. Such a listing is not in keeping with the dignity of the profession or with the spirit of Rule 3.01 and Opinion No. 11.

Directory, trade association

Q. An association directory lists a number of CPAs and their firms grouped under specialized classes of service with differentiating descriptions. Since membership in the association does not automatically place the member's name in the directory, are these listings in violation of Rule 3.01?

A. Such a listing constitutes advertising, since the firms are included only on request.

Directory, trade association

Q. Is it proper for a member to join an association whose members are listed in a directory alphabetically and in sections classified by occupation or profession?

A. A member may join the association and be listed in its membership directory alphabetically and under the classification "Certified Public Accountants" provided that all members of the association are listed, that there is no extra charge for listing, and that the listings are not promotional in nature.

Distribution of firm bulletin to publisher

Q. An accounting firm publishes a monthly information bulletin on data processing for the benefit of its staff and clients. A publishing company has asked to be put on the firm's mailing list to receive all future issues of the bulletin, which will be indexed and will remain available to customers indefinitely. May the firm accede to the publisher's request?

A. Complying with the request would inevitably lead to ethical violations, since the firm name would be mentioned in published reports on a

continuing basis and would frequently be brought to the attention of the clients of other public accountants. This would not be consistent with Opinion No. 2 which states that a member may not carry out through others acts which he is prohibited from performing directly. Since the bulletin in question is prepared for the information of clients and staff, its distribution should be limited in accordance with Opinion No. 9.

Distribution of firm literature

Q. May a firm respond to requests from professional or trade associations for multiple copies of firm publications? Could an association's request be considered a request on behalf of each of its members, thus falling within the group to whom copies may be properly sent under Opinion No. 9?

A. Provided the firm name and address does not appear on the publication, a firm might send as many copies to a trade or professional association as requested. However, multiple copies of publications which identify the firm should not be furnished to trade or professional associations even upon request, because the firm furnishing such material would be unable to control its distribution.

Employment ads, "help wanted" for client

Q. Section 6a of Opinion No. 11 states, in effect, that a "help wanted" ad shall not be in the form of display advertising when a member's name appears anywhere in the ad. Does this restriction apply to "help wanted" advertisements placed on behalf of the member's client?

A. Section 6a of Opinion No. 11 applies to all "help wanted" ads, including those placed by accounting firms on behalf of their clients. The use of the firm name in a display ad is prohibited even though the words "Certified Public Accountants" are omitted.

Employment ads, "situations wanted"

Q. To what extent may a member indicate specialization in "situations wanted" advertisements? Is advertising for per diem or part-time work considered to be advertising for professional engagements?

A. In a "situations wanted" ad a member may indicate a specialty, provided he is legitimately seeking employment and a box number is used. The appearance of a member's name in such an ad could be construed as a means of advertising. In advertising in a professional journal for per diem or part-time work, a member must make it clear that he is seeking work with other practitioners only, and a box number rather than his name should be used.

Employment ads, "situations wanted"

Q. The following ad appeared in the "situations wanted" column of a local newspaper: "Accountant, CPA, 16 years public experience, desires part- or full-time work while establishing public practice. Tel. no. xxx." Is this ad a violation of the Code?

A. In this case the advertisement is a violation, because the reference to part-time work sought by a CPA building up a practice invites concerns wishing accounting services such as public bookkeeping and tax advice to retain the advertiser.

Firm name in staff training manual

Q. A firm of CPAs is conducting a training program for new staff members. Training materials include an audit manual containing a uniform set of working papers and practical problems for the trainees to solve. Some universities have suggested that the firm print the manual and problems for their use in auditing laboratory courses. May the firm be listed as the author of these texts?

A. There is no impropriety in a firm's receiving credit for preparing training materials intended for publication and donation to universities.

Firm name on automobile

Q. Would it be a violation of the rule against advertising to use license plates bearing the letters "CPA" or to have the name of an accounting firm painted on the sides of a station wagon used by the firm in transporting its staff to and from clients' offices?

A. Either practice would be considered to be a violation of the rule against advertising.

Firm name on bowling shirts

Q. A client has prevailed upon an accounting firm to sponsor a team in a bowling league. Would it be permissible to use the firm name on the back of bowling shirts without referring to the firm as accountants?

A. There is no rule or opinion covering such displays, but the practice would seem to be contrary to good professional etiquette and would tend to bring the practice of public accounting to the level of a commercial enterprise.

Firm name on desk calendars

Q. A member wishes to distribute to his clients desk calendars bearing his firm name and CPA title. Is this a violation of the rules against advertising?

A. Distribution by a member, even to his own clients, of a desk calendar bearing the member's firm name and CPA title is contrary to Rule 3.01. Such material might be displayed by the client and thus serve as a means of indirect advertising in violation of Opinion No. 2.

Firm name on EDP manual

Q. A member has entered into an agreement with a national retail association to provide the members of the association with data processing services. The manufacturer whose equipment will be used has prepared a manual which describes the use of the equipment and the data processing program of the association. The manual is distributed by sales representatives of the manufacturer to retailers who request information about the data processing service of the association. The name and address of the accounting firm engaged to provide the data processing services appears in the manual. Is it proper for the accounting firm to be so identified?

A. It is improper for the accounting firm to be mentioned with its mailing address and a specialization indicated, i.e., data processing service. This is especially true since the manual, when distributed by sales representatives, is used as a means of solicitation. If the accounting firm coauthored the manual it would not be improper for its name to appear on the cover.

Firm name on EDP publication

Q. An accounting firm wants to distribute to its clients and to executives of its client companies an EDP publication whose back cover carries the legend "Compliments of (name of firm)." The publication would be prepared and published by a company specializing in individual firm publications and would be distributed monthly.

A. Opinion No. 1 prohibits the imprinting of "members' names, or the firm names of members, on tax booklets or other publications prepared by others." Since the publication in question contains overtones of solicitation throughout, and such promotion, even in house organs, is not considered professional, it does not fall into the category of acceptable media contained in the third paragraph of Opinion No. 1.

Firm name on tax booklet

Q. A CPA firm has been retained by stockbrokerage clients to prepare annually a booklet on tax aspects of security transactions. The clients bear the printing costs and the accounting firm's time charges. A legend on the cover of the booklet states that it was prepared by "Jones & Smith, Certified Public Acountants." The clients mail the booklet with an end-of-month statement to their customers. Is there any objection to this practice?

A. Members are not discouraged from writing books and articles, or from distributing material which is of benefit to both the public and the profession. A CPA firm may properly prepare such technical booklets for clients for a fee and be identified therein as authors.

In some cases the content and distribution of such information may go beyond the bounds of professional dignity. The test of propriety must, therefore, be applied in such case to determine whether or not the material and distribution is in keeping with the spirit of the Code.

Greeting cards to clients

Q. May a member send to clients and friends Christmas cards or other forms of holiday greetings bearing his firm name or his own name and professional designation?

A. It is not improper for a member to send to clients such greetings in his firm's name, or in his own name as a CPA. If he wishes to send cards

to friends or business associates, some of whom may be the clients of other CPAs, the greeting should be a personal one; it should not be sent in the member's firm name, and his professional title should not be shown.

House organs

Q. An accounting firm's house organ contained an article on the tax considerations of doing business abroad, written by a tax department supervisor of the firm who was a lawyer and a CPA. The biographical material accompanying the article discussed in detail the author's legal background, and it was only through brief reference to his membership in a state CPA society and the AICPA that the reader could infer that the author was a CPA. The house organ in question received wide distribution. Since accounting firms cannot practice law, was the extended reference to the author's legal qualifications proper?

A. The biographical material in the house organ of an accounting firm would be considered in poor taste in its over-emphasis of the supervisor's legal qualifications.

House organs

Q. An article in a national news weekly entitled "House Organs Move Out Into a Wider World" suggested that house organs of accounting firms are widely distributed among clients and some nonclients and suggested that one firm consciously selects topics for its quarterly which will encourage requests for permission to reprint from magazines of general circulation. Would these practices violate the advertising rule?

A. Staff bulletin and reprint policies must conform to the restrictions outlined in Opinion No. 9. After reviewing house organs of firms having such a publication and studying their distribution and reprint policies with regard to house organs, it was concluded that none of the house organs reviewed and none of the distribution or reprint policies studied violated any of the Institute's rules. The allegation that reprints in other magazines were fostered was felt to be unfounded.

Letterhead

Q. Is it proper for an accounting firm to place on its letterhead the inscription "Established in 1922"?

A. While not a violation of the Code of Professional Ethics, such a legend on the letterhead of a CPA firm's stationery is more characteristic of purely commercial enterprises than of professional firms. Public confidence in a firm must rest, not on its longevity, but on the integrity and reputation of the practitioners who comprise it. Since many of the founders would no longer be personally associated with the firm, and the firm's reputation rests on presently active practitioners, the use of such an inscription should be discouraged.

Letterhead, academic degrees

Q. May a member list his academic degrees on his professional letterhead?

A. While the Institute's Code does not forbid the showing of academic degrees on letterheads, the use of such abbreviations as Ph.D., M.S., LL.B., and so forth, might be construed as exploitation of academic accomplishments when used on business stationery.

Many Institute members possess one or more academic degrees in areas other than that of their active profession, but most of them agree that for reasons of policy and taste these degrees should not be shown.

Letterhead, lawyer-CPA

Q. May a CPA who is also admitted to the bar represent himself on his letterhead as both an attorney and a CPA, or should he use separate letterheads in the conduct of the two practices?

A. The Code does not prohibit the simultaneous practice of accounting and law by a member licensed in both professions. However, since the designation of a member as a lawyer on his accountant's letterhead could be viewed as an indication of a specialty, it is suggested that the practices be carried out through separate letterheads, calling cards, and business offices.

Letterhead, tax specialization

Q. May a member show on his letterhead the words: "Enrolled to practice before the United States Treasury Department"? The Treasury Department rules permit this.

A. Since the statement implies specialization in taxes, this legend should not be used on letterheads or cards.

Management letter

Q. A client of an accounting firm mailed to each of its stockholders a copy of its financial statements and the short-form opinion of the accounting firm. In an accompanying letter from management, the scope and complexity of the audit were discussed and the firm's customers were made aware of what was involved in such an audit. The letter mentioned, incidentally, that more than 420 people were engaged in the audit and that all the auditors involved had a college degree in accounting and many had master's degrees. Would a firm be violating the Code by permitting a client to publish this information?

A. A narration describing the scope of the audit to the brokerage firm's customers is of greater benefit to the profession than would be any incidental advertising value that may accrue to the accounting firm. The overall thrust of the narration contained information that would be presented in any event in a long-form report should the accounting firm choose to issue one. It is proper for the firm to be mentioned in this way.

Medicare booklet

Q. A hospital services division of a hospital association has prepared, with the help of an accounting firm, a computer program for Medicare cost-reporting which will be made available for a fee. As part of the promotion of the program, representatives of the division call on hospitals and distribute a booklet with the imprint "in association with _____ Accounting Firm" on its cover. Is this a violation of Rule 3.01?

A. The program of the hospital services division is a commercial venture, and, therefore, it would be improper for a firm to permit its name and professional status to be used to promote it. While it is proper for the firm to be identified as the creator of the program to assure prospective users of the program's value, such identification should be included in the text of the booklet and should be in good taste.

Membership designation, specialization

Q. May a member write a letter to the editor of a newspaper using the following designations after his name: "Former State Investigator" and "Member, American Institute of CPAs"?

A. It is proper for a member to write a letter to the editor of a newspaper or other publication on subjects of public interest and to use his CPA title in doing so. However, the designation "Member, American Institute of CPAs" should not be used, since the member's personal views may be interpreted to represent those of the American Institute.

Use of the designation "Former State Investigator," which might be taken to indicate specialization in taxes, is not in keeping with Opinion No. 11 or the spirit of the rule against advertising.

Newsletter

Q. A publishing company has discussed the possibility of issuing a monthly newsletter on financial management under a member's name. His name would be featured prominently. The letter would be sold for a yearly fee, and subscriptions would be solicited by direct mail and other advertising. Would this arrangement violate the Code?

A. Assuming that the letter bearing the member's name would be written by him or under his supervision, issuance of such a letter would not be improper. (See Opinion No. 4.) An author has the responsibility to make sure that those promoting such a publication keep within the bounds of professional dignity and do not make claims concerning the author or his writings that are not in good taste. The address of the member's firm should not be shown on such letters.

Nonpractitioner in sales brochure

Q. A member who is not in public practice serves as treasurer and controller of a construction company. The company is preparing a sales brochure that will include brief background biographies of the officers and staff of the company. May the member's biography mention that he is a CPA and a member of the Institute?

A. This would not be a violation of the Code since members not in practice are permitted to use their CPA titles in connection with business activities related to the accounting function.

Paid for by others, article on CPA firm in client bulletin

Q. As part of its advertising program, a client of a CPA firm publishes a quarterly bulletin containing news of the company, its personnel, and others associated with it. About 5,000 copies of the publication are sent to customers, suppliers, and others. Periodically the bulletin carries articles on firms which serve the company as consultants, such as insurance counselor, engineer, advertising agent, and so forth. The client wishes to run an article on the CPA firm which will include a photograph, a description of the services rendered, the names of all partners, the types of other industries served, professional and social organization memberships, and so forth. The accounting firm would not be required to pay anything. The copy is to be prepared by an agency from material supplied by the accounting firm.

Would the granting of permission for the publication of such an article be a violation of Rule 3.01?

A. The firm should not agree to the publication of such an article.

If a staff writer of a magazine announced that he was going to write an article about accounting firms and wanted information about the firm in question to be included, the article probably would be written with or without the co-operation of the subject firms. Such being the case, the firms should supply accurate information, subject to the limitations of Opinion No. 9, rather than have faulty material published which might distort the profession's image. In this case, the firm can prevent publication by refusing its permission.

Other factors influencing the decision include the following:

1. The bulletin is published, not in the public interest or because its articles are newsworthy, but as part of the company's advertising program.

2. Unlike commercial magazines, the bulletin is mailed free to consumers, suppliers, personnel, and presumably to the clients of other public accountants.

3. The mailing of 5,000 copies of the bulletin to readers, many of whom have CPAs of their own, might create ill feeling within the profession.

Paid for by others, member's testimonial article

Q. May two members, whose firms are using a tax service offered by a computer manufacturer, permit their endorsement of the service to be used in promotional articles or by sales representatives of the manufacturer who are soliciting business from tax practitioners?

A. The endorsement of any commercial product in advertisements in professional news media is unprofessional. The proposed article would glorify the accounting firm as much as the service they were using. Since all accounting magazines go to accounting executives in corporations, references to member firms should be very carefully screened by the members concerned so as to avoid the appearance of advertising or promotion. If the material used by the sales representatives was distributed to other than CPAs in public practice, it would be a violation of Rule 3.01.

Paid for by others, member's testimonial letter

Q. An accounting firm has been asked by the manufacturers of office machinery to prepare a testimonial for use in a national advertisement. Would this be a violation of the Code?

A. Such a testimonial would be a violation of the rule against advertising.

Paid for by others, member's testimonial letter

Q. A magazine published by a business machine company for use in promoting its equipment printed an article by a partner of a CPA firm; the article gave some of the firm's background and was also a testimonial for the business machine company's equipment. Would publication of the article be proper?

A. This was held to be a violation of the rule against advertising.

Paid for by others, name in client ad

Q. May a CPA's client, a funeral home, use the name of the CPA in its advertising as verifying certain financial facts? The purpose of the ad is to assure readers that the statistics on funeral costs are genuine. The CPA expressed the belief that the proposal was not much different from what occurs during the annual televised programs of theatrical awards, in the course of which reference is made to the auditing of ballots by a firm of accountants.

A. Accounting firms are often asked to perform unusual services with which their names may be associated, such as determining the number

of users of a particular product or brand, tabulating popularity polls, and the like. In general, it has been held that members may perform such services, but should not permit their names to be associated with advertising and promotional ventures which may result. In the case of the theatrical awards, no objection is made on the grounds that the services are being rendered to an entire industry rather than to a particular client and that the accountant's function is not merely tabulating the votes but also maintaining the confidentiality of the results.

If the funeral home reproduced the accountant's report without distortion, there would be no ethical objection. However, an ad which unduly emphasized the name of the accountant or which was not in accordance with good taste would be objectionable.

Paid for by others, name in client ad

Q. The name of an accounting firm was mentioned as auditor in an advertisement soliciting funds for needy children. Is mention of the firm's name in these circumstances a violation of the advertising rule?

A. Identification of the auditor by name in any advertising material is unethical. The only possible exception might be in a situation where financial statements are published in full, together with the auditor's opinion.

Paid for by others, name in client sales letter

Q. A CPA's client plans to produce and market a set of books. As part of the sales program, prospective buyers are offered coupons which may be used to obtain answers to questions concerning topics covered in the books.

The client asks the CPA for a letter giving the estimated cost of answering these questions. The letter will be reproduced and used as part of the sales literature. The letter gives the indirect cost of each question, estimated by the time and overhead involved in rendering the service. Is there any impropriety in the use of the accountant's name in this sales venture?

A. The member should not permit a letter of the type described to be circulated by the client corporation as part of its sales literature. This is in line with previous rulings that similar use of letters by clients was in violation of the spirit of the rule against advertising. The fol-

lowing are some of the types of special reports which were disapproved: (1) An advertisement carrying an accountant's statement as to the value of merchandise included in two market baskets purchased at different grocery stores; (2) statement by an accountant as to the inventory value of fur coats to be placed on sale; (3) a CPA's statement as to a count of testimonial letters endorsing a particular brand of cigarettes.

Paid for by others, radio program dedication

Q. A bank wishes to dedicate to a CPA firm one of a series of radio programs, each program being dedicated to a valued customer. In addition to credit lines, a two-minute tribute is to be given, outlining the important part the firm has played in building the community. Would this be regarded as advertising on the part of the CPA firm?

A. Yes. The project would not be approved, in spite of the fact that the firm would pay nothing for the advertising it would receive through the bank.

Paid for by others, radio program on taxes

Q. May a member give periodic radio talks on income taxes, such programs to be sponsored by one of his clients?

A. There is nothing improper in this and the member's name and professional designation may be given. His business address should not be mentioned, however; nor should there be any suggestion that his professional services are available to taxpayers for a fee.

Political endorsement

Q. CPAs, supporting the presidential candidate of one of the major parties, have sent a letter of political endorsement to the public. The names of the CPAs appear on the letter but no firm names or addresses are included. Is such a letter in violation of Rule 3.01?

A. Provided that no firm names or addresses are included, such an endorsement is not improper.

Postage meter machines

Q. What, if anything, may properly be said by Institute members in the advertisement space provided by postage meter machines?

A. Any type of advertising in the space would be improper. It is suggested that members limit the printing on their envelopes to a dignified corner legend.

Press release about PD course attendance

Q. A state society imprinted on the reservation section of an AICPA-prepared brochure promoting a PD program: "Please send a news release concerning my attendance at this course to the following local newspaper. . . ." Would this be encouraging members to seek self-initiated publicity?

A. The attempt by the state society to get publicity for participants in this seminar is considered to be in poor taste.

Press release and open house

Q. A member opening a new office in a small town has been approached by a local newspaper requesting that it be allowed to run a front page picture and personal story about him. Also, a local banker, together with other friends in his community, has suggested that the accountant hold an open house and serve coffee for about two hours. Would either of these activities be a violation of Rule 3.01 or 3.02?

A. Provided the member did not cultivate the publicity, he could comply with the request of the local newspaper to run a front page personal story with his picture (see Opinion No. 9 (para. 4)). The member could also hold a "coffee" provided he extended his invitation only to clients and those with whom professional contacts are maintained.

Press release of a speech

Q. Is it proper for a member to send a copy of a speech or an article to the local press? Would it be in better taste for the publisher to send such an article?

A. Opinion No. 4 dealing with authorship of books and articles indicates that members have the responsibility to ascertain that the publisher and others promoting the distribution of his work keep within the bounds of professional dignity. This Opinion would appear to permit the issuance of press releases by publishers or organizations sponsoring the meetings at which a talk might be given. If a press release were sent directly by the CPA concerned, it would be considered a deliberate cultivation of publicity by a member to advertise his or his firm's professional attainments or services.

Press release on change in staff

Q. May an accounting firm issue a press release announcing that it has recently admitted new partners and associates? This release would include pictures of the people involved and a brief biography of each.

A. The last paragraph of Opinion No. 9 prohibits any deliberately cultivated publicity; hence, such an announcement would be considered a violation of the Code. It would not be objectionable for the firm to mail such an announcement to clients and those with whom a business relationship has been established.

Press release on change in staff

Q. An accounting firm has mailed to its clients an announcement of the admission of two partners. A local newspaper, a client of the firm, has asked whether it might write an article about the two partners. May the firm, in response to this request, issue a press release to the newspaper which describes the professional experience of the newly admitted partners and mentions the other principals in the firm?

A. The firm would be prohibited by Opinion No. 9 (para. 4) from issuing a press release to the paper. It could respond factually to the request of the paper for information but should mention in doing so the limitations regarding publicity imposed on members by Rule 3.01 and its related Opinions.

Press release on computer

Q. A press release was issued by a computer manufacturer describing the use by an accounting firm of an electronic computer exclusively for the

training of the firm's personnel. The firm was identified throughout the release and a picture of partners and staff using the equipment accompanied the release. Is this a violation of Rule 3.01 of the Code as interpreted by Opinion No. 2?

A. General distribution of such a release would be a violation of the rule against advertising.

Press release on society chapter meeting

Q. May a CPA society chapter issue a news release concerning its meetings, including a list of participants, to various newspapers circulated in the area?

A. It would not be a violation of the Code for a CPA society chapter to issue such a news release so long as it contains what is "news" in the area. Good taste usually suggests that firm names and affiliations be omitted from a list of this kind.

Professorship named after CPA

Q. May a member who is in active practice permit a professorship at a local university to be named in his honor? Contributions for the professorship would be solicited from the profession and general public.

A. Establishment of such a professorship would bring great honor to the profession and is a desirable development. The purpose of the establishment of the chair would be to honor the person for whom it was named and not to advertise his professional attainments or solicit engagements for him. On the facts submitted, there would be no violation of the Code.

Qualifications

Q. Since some CPA firms experience difficulty in securing acceptance of their reports outside the geographical area in which they practice, may a member attach to his firm's report an addendum listing the partners' qualifications as an aid to nonlocal readers in evaluating the report?

A. Such a practice would violate the prohibition in Rule 3.01 against advertising one's professional attainments.

Resumé

Q. When a client must submit financial statements carrying the opinion of an Institute member in order to apply for a loan or financing from a bank or underwriter, is it proper for the member to submit to the banker or underwriter background data which will indicate his competence as an accountant? The purpose of submitting this information would be to avoid displacement by another accountant due to lack of a basis of confidence on the part of the banker or underwriter.

A. It is not improper for a member to submit such background data provided he is not seeking an engagement from the bank or underwriter. Lenders often keep central files on accountants whose work is submitted to them so as to assure themselves of the quality of the work performed. It is in the best interests of the client that the lender be made aware of the accountant's qualifications so that the statements he prepares for his clients will be accepted without delay. However, the background information submitted should be a brief statement of fact, in good taste and conservatively prepared, sent only for the purpose of inclusion in the lender's files. Anything more than this might be considered advertising in violation of Rule 3.01.

Seminar announcement

Q. Through a newspaper ad, an investment banking firm promoted a series of acquisition and merger seminars open to the public. Two Institute members were listed as seminar speakers, along with lawyers and representatives of banking and other industries. The firm or business affiliation of each speaker was also shown. Was the listing of the two Institute members and their firm names in the advertisement objectionable under Rule 3.01?

A. When Institute members participate in acquisition and merger seminars, the profession receives recognition of its competence in that field and the overall effect of the ad would be of benefit to the profession as a whole. It is proper for the list of speakers that appeared in the ad to include the two Institute members and to mention the names of their firms and their status in the firms as long as such titles do not indicate specialties.

Seminar program announcement

Q. A national accounting association sponsored a seminar (open to the public) on acquisitions and mergers. In the seminar program announcement, a member was listed as "Director of SEC Practice" of his firm. Is it proper for this information to appear in the program?

A. Such indication of specialty could be mentioned in oral remarks introducing speakers at the seminar to show their particular competence; however, it should not appear in printed matter such as a promotional ad or a seminar program which is often given wide distribution in order to promote the seminar. In such material, a member's name, his status (manager, partner, and so forth) in the firm, and his CPA title can be shown.

Shared office space

Q. May a CPA firm share a reception area with an EDP firm which serves the public and secures customers through advertising and solicitation?

A. While sharing a reception area with an EDP firm is not in itself a violation of the Code of Professional Ethics, such an arrangement is undesirable. Observers might strongly suspect that the EDP firm was "feeding" the accounting practice. Even if this is not the case, there is a substantial risk that a "feeder" incident might occur in the future. For reason of appearance, then, and because of the risk of violations of the Code, this arrangement is discouraged.

Signs on office premises

Q. A member has completed a new office building and is contemplating putting up, as a means of identification, his firm name and professional designation in four- or five-inch extruded steel architectural letters on the outer wall of the building.

Would this constitute a violation of Rule 3.01 or Opinion No. 11?

A. Section 5a of Opinion No. 11 states, in effect, that office signs should be solely for the purpose of enabling interested persons to locate the CPA's office. Since the sign described is larger than would be necessary for the identification of the firm's office, it is not approved. It is recommended instead that a plaque containing the name of the

firm be placed on the exterior wall of the building adjacent to the entrance. The plaque should be no larger than is necessary to enable one to locate the firm's office.

Signs on office premises

Q. A CPA firm plans to build its own office building and has obtained the site. May the firm place a sign on this property reading "Future Home of Jones & Co., Certified Public Accountants?" The sign would be legible to passing traffic.

A. Such a display is a violation of the rule prohibiting advertising. The purpose of such signs should be to enable interested persons to locate the CPA's office, not to advertise his professional services to the general public.

Signs on office premises

Q. What are the restrictions regarding the printing of an accountant's name and title on signs outside his office?

A. For general guidelines on this subject, see Section 5 of Opinion No. 11. In addition, rulings have been issued on the following points:

1. Although large outside signs are not permitted, a plaque or sign bearing the name and title of a CPA is unobjectionable. The sign itself should be in good taste and modest in size, so that it would not be viewed as advertising.
2. When an office building has the customary building directory, any sign other than the regular directory listing is improper.
3. A member firm may list on its office door partners' names and the names of staff men, with a line separating the partners from the employees.

Seeking speaking engagements

Q. May a member write to a tax conference requesting the opportunity to speak?

A. Requests for speaking opportunities might be construed as advertising if the number of such requests were great. However, an occasional

request of this kind would not be a violation. Good taste should reduce the number of such requests to a very modest few.

Specialization, acquisitions and mergers

Q. The partners of an accounting firm have formed a separate partnership which, they maintain, is not practicing public accounting but is specializing in work relating to acquisitions and mergers. May the separate partnership indicate on its letterhead that it specializes in this field?

A. The services performed by the separate partnership are considered to be "services of a type performed by public accountants" and under Rule 4.05 the separate partnership, as well as the original partnership, must abide by the Code. The Code prohibits a firm from holding itself out in this way. Thus, neither partnership could indicate a specialty on its letterhead. However, nothing in the Code or bylaws would prevent partners from using the CPA designation with their names.

Specialization on business card

Q. An employee of an accounting firm has been awarded the title "Certified Data Processor" by a data processing management association. May he use this title on his firm business card?

A. The use of such a title by an employee of a member on his business cards would be a violation of Rule 3.01 as interpreted by Opinion No. 11.

Specialization, management services

Q. A member specializes in providing temporary staff service to the management of several manufacturers. On his letterhead he uses the designation "management services" but does not hold himself out as a CPA. He believes that it cannot be unethical for a professional man to describe accurately the nature of the services he is prepared to render. Does the prohibition in Opinion No. 11 against the indication of specializations apply in these circumstances?

A. The member's situation, while perhaps not unique, is certainly unusual. Although the member's point of view is understandable, in this case an exception cannot be made to the prohibition in question.

Specialization, "Tax Accountant" designation by nonpractitioner

Q. An Institute member is employed as a "Tax Accountant" by a life insurance company. He is a full-time employee, whose duties consist of preparing the company's income tax returns, advising management of the tax consequences of proposed transactions, and replying to agents' inquiries about federal taxes as they apply to life insurance and related areas.

The member maintains that use of the "Tax Accountant" title is not in violation of Opinion No. 5 since he is not holding himself out to the public as a tax specialist. The title is not a self-designation but rather one conferred by the insurance company. He also uses his CPA title on the letterhead of the insurance company.

Is he violating any provision of the Code?

A. There would be no violation of the Institute's Code in the use of the title "Tax Accountant," conferred by the insurance company. Also, there is no objection on ethical grounds to his use of the CPA title, provided it is not used in connection with a private practice in such a manner as to invite a charge of violation of the rules concerning advertising and solicitation.

Staff recruiting ad in employment guide

Q. May an accounting firm purchase space for a listing in an employment guide showing career opportunities in the area of finance? The listing would broadly describe the makeup and activities of the firm.

A. Listings in such guides are not improper as long as distribution is limited to individuals seeking employment, college placement officers, and other persons and organizations actively involved in placement. The listing should be in good taste and conform to the guidelines set forth in Opinion No. 9, paragraph 3.

Staff recruiting in career opportunity guide

Q. May an accounting firm submit information to a publisher of a career opportunity guide to be distributed to graduate students only?

A. It is not objectionable provided the accounting firm, in listing itself in the guide, observes the specifications of paragraph 3 of Opinion No. 9 which deals with staff recruitment brochures, adding only such infor-

mation as will enable the student to make a knowledgeable assessment of the operations of the firm. The format of the insertion should meet the requirements of good taste; an ad-type presentation would be unacceptable.

Staff recruiting in university publication

Q. An advertisement appeared in a university newspaper stating that an accounting firm (named in the ad) would have representatives on the campus at a certain date to interview students interested in careers in public accounting. Is this a violation?

A. Since the newspaper was distributed only to students on campus, there is no objection to the ad. However, in another inquiry relating to a similar ad in a newspaper distributed to students and townspeople alike, a violation of Rule 3.01 was found.

Staff recruiting through institutional ad

Q. A state CPA society chapter wishes to insert an institutional ad in a newspaper, urging students to study accounting and aspire to a career in public accounting. The ad would list the names of all the CPAs in the chapter. Is this acceptable?

A. This proposal is improper. It is suggested, instead, that the ad show the address of the chapter's local office or a post office box number, without naming any member.

Trade association membership

Q. Would it be proper for a member to join a regional executives association organized to "personally advertise your business (which is admittedly one of the best forms of advertising) among other executives of different lines of business from your own"? Members of the association who need a service in connection with their business are expected to give fellow members the first opportunity to offer a proposal.

A. Membership in an organization of this type is to be distinguished from membership in such service organizations as the Kiwanis, the Rotary Club or the Lions Club. Because membership in an executives associa-

tion could be used to build an accounting practice through advertising and solicitation, it is suggested that the CPA exercise great care in his activities as a member. Should his membership be used to promote his practice, he would be in violation of Rules 3.01 and 3.02.

Window signs

Q. May a member place a sign "Expert Income Tax Service," on which neither his name nor designation as a CPA will be shown, in the window of a rented store which is not in the same neighborhood as his public practice accounting office?

A. Such a display is improper in that it constitutes advertising professional services, even though the member's name would not be used.

Solicitation

Associations

Q. A CPA is employed by a trade association and is paid a fixed salary for supervising the retail bookkeeping service department. This department offers bookkeeping services to the individual members of the association who subscribe to the service. The association freely asks its members to subscribe to the service, without mention of the fact that the department is run by a CPA. Would the CPA in question be violating the rules against advertising, solicitation, and encroachment?

A. The CPA in question would not necessarily be violating the Institute's Code if he is merely an employee of the association, maintains no public accounting practice, is not represented as a public accountant, and does not violate the state accountancy law. While such an arrangement is discouraged, it is not prohibited.

Associations

Q. May a member retained by a trade association permit the association to offer his services to its members?

A. This would be indirect solicitation in violation of Rule 3.02. It would also violate Opinion No. 2, which prohibits a member from carrying out through others acts which he may not do directly.

Associations, speaking engagements

Q. May a member send letters to trade associations offering to speak at their meetings on subjects of general interest on which he is well informed?

A. Addresses by accountants before business groups are highly desirable, but such addresses should be delivered in response to unsolicited invitations or through arrangement by state or national organizations of professional accountants. Direct solicitation by a practitioner of opportunities to speak before meetings of trade associations attended by nonclients would be regarded as a violation of the rules against advertising and solicitation.

Bank notice of audit

Q. A bank is issuing a notice to its depositors that it is being audited and is requesting them to comply with the accountant's efforts to obtain confirmations. May the CPA firm permit its name to appear in such a notice? (The bank's depositors may include clients of other CPAs.)

A. A bank's notice to its depositors that it is being audited, mentioning the name of the accounting firm performing the audit, is not a violation of the Code if such a notice is clearly a request by this bank for compliance by its depositors with the accounting firm's efforts to obtain confirmations.

Change of control of client company

Q. A member states that control of a client company has been obtained by a second company which is served by another accounting firm. Would there be any violation of Rule 3.02 if the member communicated with the holding company and the accounting firm in an effort to retain his client?

A. No. He would be free to do so because of the existing client relationship.

Charity solicitation by phone

Q. When making community-wide solicitations by telephone on behalf of a charity, may a CPA caller identify himself by name, CPA title, and firm name?

A. When making charitable solicitations by telephone or by letter to nonclients, an Institute member should not identify his firm or profession but should make the solicitation as one neighbor or citizen to another.

Church bulletin

Q. May a member offer in a church bulletin to prepare without charge federal and state income tax returns of all persons agreeing to contribute to the church's emergency fund?

A. Such an offer would be an attempt to obtain clients by solicitation and consequently would be a violation of Rule 3.02. The offer would also be a violation of Rule 5.01, forbidding encroachment upon the practice of another public accountant, if any parishioners were already so served.

Competitive bidding

Q. A firm has been the auditor of a county for the past three years. State law requires the Commissioner's Court at its regular January meeting to enter into an auditing contract with independent accountants covering the preceding year.

A representative of the incumbent firm attended the Commissioner's Court meeting to answer questions and to receive official appointment as auditors of the preceding year's records. A partner of another accounting firm appeared before the court and asked that his firm be awarded the audit contract, stating that although he was sure the previous auditors had done a good job, the assignment should be rotated among other qualified practitioners. In answer to a commissioner's question about fees, and without asking if any other accounting firms were being considered, he stated that he would be glad to furnish a schedule of rates. He later said that he had been requested by one of the commissioners to appear before the court in this connection. The other members of the court did not previously know that such an invitation had been extended. Would an informal request of one commissioner sufficiently justify the member's actions?

A. The mere submission of a schedule of rates in response to an informal request would not constitute a prohibited act. The accountant may have lacked good judgment in failing to contact the incumbent auditors and in effect promoting himself by suggesting the assignment should be "rotated."

The accountant's action also borders on solicitation, but if the individual sincerely believed that the commissioner who requested him to appear was authorized to make that request, he would not be in violation of Rules 5.01 and 3.01. Although not technically in violation of the Code, the member failed to exercise prudence by not first ascertaining the propriety of his appearing before the Commissioner's Court.

Confirmation requests

Q. Does the Institute's Code prohibit a member from enclosing, with confirmation requests, a copy of "Please Check Your Account," a pamphlet prepared by the Institute to urge creditors to acknowledge confirmation requests?

A. There would be no prohibition against enclosing the leaflet with confirmation requests even where the confirmation request includes the name and address of the firm. However, the firm would not be permitted to imprint its name on the booklet itself, first because a CPA should not give the appearance of authorship on something which he did not in fact prepare and second, because the pamphlet could constitute advertising if it were imprinted with the CPA's name and address.

Confirmation stickers

Q. A bank lends money to a corporation, taking its receivables as assignment for the loan. The bank periodically confirms some of the receivables by negative confirmation requests furnished by its independent auditors. The CPA firm has no control over the use of its confirmation stickers by the bank. The return address for the negative requests is a post office box number jointly controlled by the bank and the CPA firm. The corporation has no independent auditor and the CPA firm has no business dealings with it. Is it proper for the CPA firm to permit its negative confirmations to be used by the bank to check a customer's receivables?

A. The practice is permissible as long as there is a measure of control by the CPA firm over the use of its confirmation stickers. Wholesale abandonment of control of the use of negative stickers would not be in accordance with good audit procedures, since it could lead the CPA firm into the realm of advertising or solicitation; in addition, the prime purpose of the confirmation as an audit tool should be kept in mind.

Confirmation stickers

Q. A client wishes to press some of its creditors for collection by using some negative confirmation stickers of its CPA firm appended to its monthly statements. Can the firm agree to this?

A. If done as part of a continuing annual audit, such use of negative confirmation stickers is not improper. Receivables must be confirmed any-

way, and if the attachment of negative confirmations were to result in a collection, no one would be harmed. The primary interest of using negative confirmation stickers, however, should not be to dun the creditor.

Consultation by phone

Q. A client with a tax problem peculiar to his industry has asked his CPA to telephone other companies in the same industry to determine whether they had the same problem and to ask how they dealt with it. Would this procedure violate Rules 3.02 and 5.01 of the Code?

A. The CPA should telephone the accountants of the other companies and not the companies themselves to discuss any tax problems peculiar to the particular industry.

Estate planning

Q. A member has been asked by a corporation which is engaged in the sale of life insurance and estate planning services to obtain from the books of the customers of the corporation the basic data needed to draft estate plans. May the member accept the engagement?

A. The member may accept the engagement. However, he should be most circumspect in his contact with any client of another CPA to avoid problems relating to the rules against advertising and solicitation.

Executive search

Q. Is it permissible under the Code of Ethics for a CPA who has undertaken an executive-search engagement to make unsolicited telephone calls or other overtures to executives of clients of other CPA firms (whom he has never met) endeavoring to interest them in the job opportunity?

A. As long as it is done in a dignified manner, CPAs can approach executives of clients of other CPA firms when they believe the executives to be available and qualified and are endeavoring to interest them in a *position with an executive-search client.*

Firm seminar

Q. A member who attended a professional development course wrote to other participants shown on the course attendance list to invite them to attend a seminar conducted by his firm on the concepts of EDP. Some of the participants in the professional development course who received invitations were employees of clients of other CPAs. Would this activity violate the solicitation or encroachment rules?

A. Such a procedure is a thinly veiled attempt to solicit the clients of other CPAs and is consequently improper.

Golf outing

Q. Is it proper for a firm to invite its alumni to a golf outing when some of those invited hold positions of responsibility with clients of other CPAs?

A. The profession has more to gain than to lose by permitting occasional contacts between accounting firms and their alumni. An invitation to an alumni golf outing is not in the nature of solicitation or advertising. This principle applies whether the alumnus is an employee of another accounting firm or whether he is employed by a firm which is a client of another accounting firm.

Government work

Q. Is it proper for a member of a state society to follow the suggestion in a letter from his state society president that qualified members offer their services as "fact finders" for the Department of Labor's Mediation Board?

A. Ordinarily, if members offer to perform professional services for a government department, they would be considered to be soliciting in violation of Rule 3.02. But, since in this case the president of a state society, motivated by a desire for the profession to perform a vital public service, suggested in a letter to the society members that they offer their services, a response to his suggestion would not be considered a violation.

Inquiry about available services

Q. A state department of commerce has sent a questionnaire to CPAs practicing within the state asking them to outline their capacity to perform

such services as data processing, accounting machine and office systems application, clerical cost control, systems review, and so forth. The purpose of the questionnaire is to enable the department to demonstrate to any industry which might consider entering the state that it would be able to secure within the state professional services in the enumerated areas. Is it proper for a member to complete and file the questionnaire with the department of commerce?

A. While Opinion No. 11 states that members may not indicate special services they are prepared to render, this prohibition should not be interpreted to impede co-operation with a program sponsored by a state department of commerce. However, the state CPA society should inform the department of the profession's ethical restrictions and suggest that its aims could be met by the profession in a more desirable way, such as distribution of a pamphlet indicating what CPAs do.

Inquiry for client survey

Q. A member sent a circular letter on his CPA stationery to a client of another CPA; the letter purported to be a part of a study for a client interested in developing a service connected with water meter readings. The letter gave full information concerning how much such a program would cost, and inquired about the cost of the addressee's present water meter reading system. Is this a proper service for a CPA to render his client?

A. The CPA appeared to be conducting a combined solicitation and inquiry on behalf of a client, with the solicitation theme dominant. While the activity was deemed to be improper, it is not felt that there was a clear violation of the Code.

It was decided that the CPA's activity is a solicitation of customers for his client and exploitation of his professional standing on behalf of the client, and is not a proper undertaking for an Institute member. The "survey" is distinguished from the conduct of a survey on behalf of a client trade association among its members only, which is a proper professional engagement.

Letter on behalf of client

Q. A CPA's client is interested in acquiring a controlling interest in a bank, but he does not want his name associated with initial inquiries. He has,

therefore, asked his CPA to mail a request for preliminary discussions to persons who might be interested in the client's offer. The letter of inquiry would read, "I have a client who is interested in acquiring. . . ." When an addressee responds to the request, he will be contacted by the client. Would the rules against solicitation and encroachment prohibit the CPA from making such a mailing?

A. It is not objectionable for a CPA to start negotiations on behalf of his client by means of a letter of specific inquiry mailed to a selected list of candidates who might be interested in the client's offer. However, if a client were interested in many businesses, it would be objectionable under Rules 3.02 and 5.01 for the CPA to write many letters to businessmen, attorneys, bankers, etc., to inquire whether certain businesses or types of businesses were for sale.

Letterhead for estate practice

Q. A member has rendered accounting services in connection with estate planning, together with an attorney and two insurance underwriters—each billing and being paid separately for services. The insurance underwriters wish to prepare a letterhead for estate practice use and for solicitation of clients. They have suggested, since legal and accounting services are recognized as a necessary adjunct to this type of practice, that the attorney's and the CPA's names be displayed on the letterhead, with titles. Would this violate the Code?

A. The suggested letterhead, which would be used in soliciting and promoting business, would place the CPA in violation of Opinion No. 2, which holds that a member may not carry out through others acts which he is prohibited from performing directly.

The Code does not prohibit a member from collaboration with insurance underwriters and attorneys in the estate planning field, but since such services are a type performed by public accountants, a member must observe the bylaws and the Code in rendering these special services.

Letterhead for promotional material

Q. A member has developed a chart for quickly figuring self-employment tax, which he would like to sell to other accountants. May he use his own letterhead showing him to be a CPA and a member of the American Institute?

A. There is no objection to the proposed promotion of the chart. However, this circulation should be limited to practicing public accountants and should not be used as a means of soliciting clients.

Mailings to accountants

Q. May a member write accountants with whom he is acquainted announcing his availability as a tax consultant?

A. Since such a letter is not addressed to prospective clients, there would be no violation of the solicitation rule, nor would there be any encroachment on the practice of other public accountants in violation of Rule 5.01. There is, therefore, no objection to the proposal.

Mailings to fellow board members

Q. A CPA, a member of a social club, and formerly its auditor, became a member of the board of governors after another CPA member had been elected auditor. Several weeks after this, the former auditor mailed a copy of an income tax ruling which offered advantages to the club, together with his own comments, on his firm stationery, to all members of the board of governors. Is this a violation of the rules of conduct?

A. A member of a club has a right to inform the proper authorities regarding income tax rulings affecting the club. Although the more usual procedure would be to bring the matter to the attention of the president or the treasurer and to suggest that it be placed on the agenda for the next meeting of the board, there is no violation of the rules of conduct.

Management consulting referral

Q. A management consulting firm which obtains clients by advertising and solicitation has requested an accounting firm to review the books and records of the consultant's clients and to furnish data to the consultants from the client's books and records for use by them in serving the clients. Would it be proper for the accounting firm to accept this engagement?

A. In any engagement such as the one described, the co-operation of the client would be mandatory. Therefore, the management consulting firm should inform its customers that information from their records is necessary and request them to have their accountants supply such information. If they do not have professional assistance, the management consulting firm could recommend an accounting firm to them. It should be made clear to all concerned, however, that the client-accountant relationship exists between the management consulting firm's customer and the accountants, and not between the management consulting firm and the accountants. If it were otherwise, the accounting firm could be viewed as practicing in the name of another in violation of Rule 4.02.

Open house

Q. A member, opening a new office in a small town, wants to have an open house to which he will invite clients, public officials, attorneys, bankers, and selected persons having a direct or indirect interest in his firm. At the open house he would distribute a memorandum outlining the services of his firm and containing brief biographies of his staff members. This memorandum would be used subsequently for personnel recruitment and information to new clients or prospective clients who have approached the member's firm. What are the ethical considerations of such a proposal?

A. Holding the open house should be discouraged, although it could not be said that holding such an event constituted advertising or solicitation. Because the memorandum is promotional, it should not be distributed at the open house or at any time to nonclients; however, it would not be improper to use it subsequently for personnel recruitment. Opinion No. 9 would apply to any newspaper publicity resulting from the opening of the office.

Request for financial statements

Q. A member wishes to build a library of financial reports, issued by small and medium-sized commercial firms, which are unavailable since such firms are not listed on stock exchanges. May he use his letterhead in individual communications to the corporations to request the financial statements?

A. It is not improper for a member to circularize a request for financial statements so long as the requests are sent to a comparatively modest number of companies. Requests in large numbers and repeated requests to the same firm which may be the client of another CPA might ultimately constitute a violation of the solicitation rule.

Trade association analysis

Q. A trade association has engaged a member to perform an analysis of specific problems affecting members of the association. The results of his analysis, bearing his firm's name, will be reproduced by the association and distributed to its members. Would Rule 3.02, as interpreted by Opinion No. 2, prohibit such distribution?

A. Rule 3.02 should not be interpreted to preclude an association from distributing to its members the results of an analysis it had engaged an Institute member to perform. It would also be permissible for the member to be identified in the report with his firm affiliation since his report is interpretive and a reader would be entitled to know by whom it was prepared. However, no reference should be made to the office of the member nor should this ruling apply to client newsletters or other similar pieces issued gratuitously to general clients by the member's firm.

Trade association survey

Q. A trade association engaged an accounting firm to conduct a survey. The association mailed a questionnaire to its members with a covering letter to request that replies be sent to the accounting firm which is mentioned by name. Does Rule 3.02, as interpreted by Opinion No. 2, prohibit the accounting firm from being thus identified?

A. In requesting information from its members which could be considered confidential, it would not be improper for the association to identify the accounting firm to whom replies should be directed.

Commissions

Accounting forms and systems

Q. A member supplies standard accounting forms and systems, particularly to automobile dealers, nursing homes, and attorneys. He has a program designed to serve automobile dealers under which another CPA who recommends the program to his auto dealer client would receive a fee of $50 per month from the systems supplier, ostensibly for reviewing the dealer's input to be sure that it is in a form that can be processed by the supplier's computers. Would Rule 3.04 prohibit a member from participating in such a program?

A. If no services were performed by the CPA for his client in connection with this program, he would be in violation of Rule 3.04 since the CPA would be receiving a commission from the systems supplier.

To comply with the Code, the CPA would have to recommend the system on its merits rather than because he stood to receive any benefit from it. The client to whom the system is recommended would have to be able to renegotiate the fee, if any, to be paid to the accountant for any services which might be necessary for the client's data to be put into a form compatible with the system. The fee arrangement should be made directly between the CPA and the client, and the fee of the service supplier could be adjusted downward as necessary.

Bonus or profit-sharing plan

Q. May a member share the profits of professional accounting work with his employees?

A. Rule 3.04 was intended to prevent the sharing of the profits of professional work with anyone "not regularly engaged or employed in the practice of public accounting as a principal occupation." It was not

designed to prevent a firm from having some form of bonus or profit-sharing plan. Such plan could include participation in all profits of the firm or in a specified portion thereof. All employees may take part in the plan.

Compensation from nonpractitioner

Q. A member proposes to render a management service to clients by arranging for the purchase of supplies from a supplier who offers a discount. The supplier, who is also a client, feels that the CPA's fee should be increased as compensation for providing this service. Would this constitute a violation of Rule 3.04? Would the answer be any different if the supplier was not a regular client of the CPA firm?

A. Accepting a commission from the supplier, whether or not he was a regular client, would violate Rule 3.04, which states in effect that a member may not participate in the profits of work recommended to a nonpractitioner as incident to services for a client. Assisting clients in obtaining the best equipment at the best price is a legitimate professional service, however, and the CPA may properly charge for the time and effort devoted to this activity.

Compensation from nonpractitioner

Q. A management consultant corporation wishes to offer its services to CPA firms that do not have specialized consulting divisions. The CPA firm would retain the corporation and would be billed for services rendered by the corporation for the firm's clients at an hourly rate, adding to it a charge for the firm's reviewing services. The firm would be kept fully informed by the corporation of consulting work done for clients and a member of the firm would assist in the work one day a week. Would this arrangement violate the Code?

A. There are no restrictions on a member referring his clients to non-CPA management consulting organizations. The management consulting corporation would have to bill the firm's clients directly for its services. It would be contrary to the principle of professional responsibility for a member to employ a consultant organization and then offer its services as his own, since Rule 4.02 states that a member shall not practice in the name of another unless he is in partnership with him or in his employ.

Computer center

Q. An accounting firm, together with a management consulting firm and two banks, proposes to rent a computer. The accounting firm would computerize its write-up services; the management consulting firm would perform statistical studies; and the banks would program their internal operations and offer computer services to customers and depositors. The customers and clients of the accounting firm, the management consulting firm, and the banks would be notified of the availability of computer services and of the joint basis on which the service is operated. Is this arrangement in violation of the Code?

A. Such an arrangement would be in violation of Rule 3.04 since the accounting firm would be sharing the profits of the computer operations, which are services performed by public accountants, together with persons not engaged in the practice of public accounting as a principal occupation. Since the banks and the management consultants would notify persons other than the accounting firm's clients of the availability of the computerized services, there would also appear to be a violation of Rule 3.02.

Computer service franchise

Q. A member wishes to be a representative of a computer tax service. The organization provides services only to tax practitioners, and no services are offered directly to the public. The member would be expected to utilize his professional contacts to introduce the service to other practitioners and to promote its use by them. He would receive a fee on each tax return processed for a practitioner from within his franchise area. Would this arrangement constitute a violation of Rule 3.04 or 4.04?

A. Rule 3.04 provides that a member may not accept commissions or participate in fees of work turned over to the laity as incident to services for clients. The proposed activity would not be "incident to services for clients," and Rule 3.04 does not apply.

In addition, serving as representative of a tax preparation computer center would not be incompatible with the practice of public accounting, as long as the center provided services only for practitioners and not directly to the public. Contacts with other practitioners would be governed by the restrictions in Opinion No. 7.

Contingent fees to fire adjuster

Q. A member's client is a public fire adjuster who assists insured persons in negotiating settlements of fire losses with insurance companies. The adjuster's fee is based on a percentage of the recovery. In negotiating such settlements, the adjuster needs financial statements for a three-year period, prepared without audit from the books and records of the insured. Could the member provide such services for a fee which would be a percentage of the fee received by the adjuster? Would Rule 3.02 apply, since the client solicits engagements to negotiate fire loss settlements?

A. Since the fee is dependent upon the amount of the settlement, it is a contingent fee in violation of Rule 1.04 of the profession's Code. It is suggested, therefore, that another fee arrangement based on per diem rates might be readily worked out which would be more clearly within the framework of the Code. The fact that a member's client secures business through solicitation would not put the member in violation of Rule 3.02.

CPA-professor

Q. May a member share the profits of professional work with a CPA who is a full-time professor of accounting but who also does some public accounting?

A. Many members conduct a regular accounting practice in addition to their full-time employment in education or industry. In general, such a member is considered to be engaged in the practice of public accounting as a principal occupation if he holds himself out as such, maintains an office, lists himself in a directory, renders services for clients, and is not engaged in another occupation which would be considered incompatible or inconsistent with public accounting. (See Opinion No. 6.)

In the situation presented, it would not be a violation of Rule 3.04 for the member to share fees with the CPA-professor.

Estate payments

Q. In purchasing the practice of a deceased accountant, a member agrees to pay the estate a share of the profits of the practice over a specified period. Is this a violation?

A. Rule 3.04 forbids participation by nonpractitioners in the fees or profits of professional work, but payments to a widow or the estate of a retired or deceased practitioner would not be considered a violation. It would be improper, however, for a former partner's widow to be included as a partner of a CPA firm, unless she herself were professionally qualified.

Insurance sales to clients

Q. Does a member who sells insurance to clients only, without advertising or solicitation, violate the Code by accepting a commission on such sales?

A. It is understood that such commissions are required to be paid by state law. The member should notify the client that he will receive such a commission. To assure that his independence is maintained and to avoid violating the spirit of Rule 3.04, the member should show the commission as a set-off in rendering his regular accounting fee.

Purchase of bookkeeping practice

Q. A CPA buys the practice of a bookkeeping firm which is limited to monthly write-ups and tax return preparation. The purchase price is a percentage of the fees received from the bookkeeping firm's clients over a three-year period. Would there be a violation of Rule 3.04 in these circumstances?

A. Since the rule prohibiting the sharing of professional fees with nonpractitioners was not intended to cover such situations, there would be no violation of Rule 3.04. This ruling is based on the assumption that the percentage of fees received is simply a means of determining the price that will be paid for the practice and that the arrangement will terminate at the end of the three-year period.

Referral

Q. An accounting firm proposed to enter into an arrangement with a management specialist. The management specialist would seek engagements from business organizations to prepare a survey of their operations that would suggest where improvements might be made. If the survey indi-

cated deficiencies in the accounting systems, the consultant would recommend that the accounting firm design and install an accounting system. The accounting firm would pay the specialist a compensation for the referral based upon a percentage of the total fee for the engagement. Would such an engagement be proper?

A. It is common practice for members to accept referrals from individuals not regularly engaged or employed in the practice of public accounting. However, Rule 3.04 would prohibit members from paying a commission to a nonpractitioner for such a referral. Consequently, Rule 3.04 would prohibit the arrangement described.

Shared billings

Q. A member utilizes the services of a data processing center in performing work for some of his clients and submits itemized bills for both EDP and professional accounting services. This separate billing method appeared to some clients to increase the cost of accounting services, and the member proposes to form a corporation for the sole purpose of billing clients for data processing work. The billing corporation would not advertise, solicit, or maintain an office or telephone facilities. It would bill in the same range as the member has in the past. Is this arrangement proper?

A. A member should take full responsibility for his work product and should not interpose a separate entity with limited liability between himself and his client, even for billing purposes. It would appear that separate billings for EDP and professional services could just as easily be made by the member's firm.

Operating Practices

Incompatible Occupations—Rule 4.04

Form of Practice—Rule 4.06

Data Processing

Incompatible Occupations

Actuary

Q. An accounting firm has acquired that portion of an insurance brokerage firm which performs actuarial and administrative services in connection with employee benefit plans. Does this constitute a violation of Rule 4.04 regarding incompatible occupations if the operation were to be conducted as a separate partnership?

A. Actuarial and administrative services in connection with employee benefit plans are a proper function of CPAs and are not incompatible with the practice of public accounting. As long as the organization adheres to all the provisions of the Code and bylaws, there would be no objection to this arrangement.

Bank director

Q. May a CPA serve as a director of a bank which might receive opinion reports issued by his firm?

A. Service as a bank director is not considered to be an occupation incompatible or inconsistent with public practice. The CPA, of course, could not act as independent auditor of the bank, nor could he use his position as a "feeder" for his accounting practice.

However, a member serving in this capacity might be placing himself in an embarrassing and potentially damaging situation. For example, he might find himself discussing the affairs of one of his clients about whom he had confidential information not available to other members of the bank's board. The member should abstain from any participation in matters which might involve a conflict of interest.

Bond prospectus preparation

Q. Would it be proper for an accounting firm to engage in the preparation of bond prospectuses for municipal governments?

A. The preparation of a prospectus for a placement of bonds would seem to require the services of an experienced attorney. If the firm is competent to perform this service, there would be no specific restriction in the Code against it, unless such a service would constitute an unauthorized practice of law.

Coaching course for CPA candidates

Q. A practicing member wishes to conduct a CPA coaching course and to promote the course by mailings to other practicing public accountants. Is there any objection to such a venture?

A. Conducting a coaching course is not incompatible or inconsistent with public accounting. Many practicing members are associated with such educational efforts. The important thing in promoting such a course is to be circumspect about the distribution of literature advertising the course.

Collection agent

Q. A member in public practice wants to take out a state license as a collection agent and perform collection services by phone and letter for his clients only. Is this proper?

A. Even though the collection service would be performed for clients only, it would not be proper for a member to contact his clients' customers by either letter or phone requesting that accounts be paid. Collection agent is an occupation inconsistent and incompatible with the practice of public accounting, and the mailing of collection letters is a violation of Rule 4.04 of the Code. Such letters tend to detract from the dignity of the profession and to discredit the confirmation procedure.

Consumer credit company director

Q. A consumer credit company purchases installment sales contracts from retailers and receives payments from consumers. May a practicing CPA serve as a director or officer of such a corporation?

A. Yes, as long as he does not audit the corporation and does not participate in matters which might involve a conflict of interest.

Employment agency

Q. A member alleges that many firms operate employment agencies. Would this practice violate the Code?

A. The operation of an employment agency is to be distinguished from providing executive-search services for clients (a service not thought to be an incompatible occupation), which is done by many firms of varying sizes. Even though some states require firms offering such services to be licensed as employment agencies, there is no evidence of any accounting firm operating an agency for various types of "non-key" employees.

Employment agency

Q. A practicing member proposes to engage in a business venture in the employment agency field. He plans to supply other CPAs with accountants, bookkeepers, and related personnel. He would hire a counselor to manage the agency, and his accounting practice would not be affected. Is the proposed occupation incompatible with public accounting?

A. There would be no violation of Rule 4.04, provided the CPA's activities are limited to those described. If they extended to non-CPAs, the agency might be considered to be serving as a "feeder" to his public accounting practice. The member should not use his professional designation in connection with the agency.

Estate planning

Q. May a member join with an attorney and insurance consultant to offer estate planning services to the public under the title "Estate Planning Company"? The total fee would be billed to the client and the net profit divided equally among the three partners in the joint venture.

A. The member may join with the attorney and insurance consultant to offer estate planning services to the public provided the services are

offered in compliance with the Code and Opinion No. 17. The name "Estate Planning Company," which indicates a specialty, could not be used. Moreover, the partnership could not share commissions from the sale of insurance since to do so would be to violate Rule 3.04.

Finance company

Q. May a CPA conduct a public practice and also be involved in the operation of a finance company?

A. This arrangement would be a violation of the rule against incompatible occupations. There is danger that the finance company might serve as a "feeder" to the public accounting firm. There might also be relations between common clients of the accounting firm and the finance company that might cast doubt upon the independence of the accounting firm.

The firm should decide whether it wishes to conduct a public accounting practice or operate a loan company. In the event the interest in the finance company is to be disposed of, a reasonable time would be permitted within which to carry out the decision.

Insurance broker

Q. A practicing CPA wishes to take out an insurance broker's license and to affiliate with an insurance agency. Would this violate Rule 4.04?

A. Since this occupation would necessarily involve advertising and solicitation, such an activity would be incompatible and inconsistent with public accounting.

Insurance salesman

Q. A CPA in public practice proposes to take out a state insurance license and, from time to time, sell insurance to friends and clients. He would neither advertise nor solicit. Would his proposal violate Rule 4.04?

A. A member selling insurance engages in an occupation incompatible and inconsistent with the practice of public accounting. A client served by the member in both capacities might question the accountant's

objectivity and independence in relation to his enterprise. Since the successful pursuit of insurance selling requires advertising and solicitation, the occupation is capable of being used as a "feeder" for the member's practice.

Investment advisor

Q. May a member in public practice set up separate offices as a registered investment advisor?

A. The simultaneous operation of an accounting practice and an investment advisory service, either in the same or separate offices, is a violation of Rule 4.04 of the Code.

Liquor store owner

Q. Is it proper for a CPA to engage in a retail mercantile business, and if so, might he operate a bar or liquor store?

A. The operation of a retail business such as a bar or liquor store is not considered incompatible with the practice of public accounting, although members are not encouraged to enter into a business of this type.

Loan broker

Q. An insurance company asked a CPA to serve as broker in handling industrial and commercial loans. Some of the CPA's clients might be interested in obtaining these funds. Would acceptance of the offer involve a violation of the Code?

A. A member cannot act as a loan broker and maintain an accounting practice at the same time, without violating Rule 4.04.

Mutual fund salesman

Q. A member wishes to serve as local representative of an open-end investment trust. His compensation would be in the form of a sales commission. Would this arrangement be a violation of the Code?

A. Because it would necessarily involve active solicitation of possible buyers of securities and consequently discussions of accounting and tax matters, this occupation would be incompatible with public accounting.

Outside commercial ventures

Q. A member proposes to join with a nonaccountant in a firm that will offer "memory insurance service" to remind customers by postcard of birthdays, anniversaries, and other personal or business dates. The charge will be based on the number of such dates each year. Would this constitute an incompatible occupation?

A. The venture would not involve a violation of the Code as long as the member remained a passive and unidentified investor in the business who took no part in its operation or management and was not represented to the public as being associated with it.

Private investor in business and real estate

Q. Because of ill health, a member has withdrawn from his firm and has retired from public practice. His former firm has retained his name in its title. The member has announced his entry into the investment and real estate business in newspapers, listing his address, which is the same as that of his former CPA firm. He does not mention his CPA title in advertisements. Has he violated the Code?

A. Since the member has retired from his accounting firm and no longer practices as an accountant, the mere retention of his name in the former partnership title would not cause him to be considered a practitioner. Therefore, although the investment and real estate business has been held to be an incompatible occupation, the member would not be violating the Code in this case since the occupation is not being conducted conjointly with the practice of public accounting. For the same reason, there is no violation of the advertising rule. It is assumed that his severance from the former firm is total, and that he would not be referring to his former firm any customers with whom he has contact in his present business. The member's real estate practice may not be conducted from the same office as the former accounting practice, but it may be located in the same building.

Real estate broker

Q. Is the operation of a part-time real estate business (as a broker) incompatible with public accounting?

A. The operation of a real estate business as a broker or salesman, either on a part- or full-time basis, is incompatible and inconsistent with public accounting within the meaning of Rule 4.04 of the Code.

State controller

Q. May a member serve in the office of the state controller and at the same time practice public accounting? The principal functions of the state controller are to maintain control over accounts for all state funds, administer disbursements, allocate revenue among county and local governments, and serve as ex officio member of several committees, boards, and commissions.

A. It would not be improper per se for a member to serve as state controller and practice public accounting on his own behalf at the same time. However, the member could not properly have as accounting clients any individuals or entities which may be subject to supervision by the committees, boards, or commissions on which he serves as an ex officio member.

State secretary of revenue

Q. As the state secretary of revenue, a member administers the state taxation system. Would this position be incompatible with an active partnership in a public accounting firm?

A. This post would be incompatible with public accounting.

Stockbroker

Q. A member in active practice wishes to have a limited partnership interest, not material in relation to his net worth, in a brokerage firm. He will invest capital and receive a fixed return, rather than a share of the profits, and will neither participate in management nor exercise control.

He will not discuss securities with any customer of the brokerage house. He will not represent either the brokerage firm, in its position as underwriter, or any company which the firm is underwriting. Would such an arrangement constitute a violation of Rule 4.04?

A. There would be no violation of the Code as long as the member is not the auditor of the brokerage firm, does not use the firm as a "feeder" to his accounting practice, and his relationship with the firm remains as outlined.

Travel agency

Q. Is the operation of a travel agency incompatible with the practice of public accounting?

A. Provided the operation of the travel agency is separate from the member's public accounting practice and is not used as a "feeder," there would be no violation of the Code.

Trust corporation

Q. A member and his partner propose to purchase a 20 per cent interest in a corporation engaged in the administration of trusts and serving as trustee for numerous trusts in a state which prohibits individuals or partnerships from serving as trustees. Some of the trustors contracting to have the corporation act as trustee would also be clients of the member's accounting firm. Every effort would be made to prevent the corporation from serving as a "feeder" to the professional accounting practice. The trust organization would advertise and solicit business as do banks and others offering similar services. No opinion would be expressed on either the financial statements of the corporation or on the statements of a client who might also be a customer of the trustee corporation. The accounting firm's clients would occasionally be referred to the corporation but any referrals from the corporation to the accounting firm would be rejected. Would the proposed arrangement constitute a violation of the Code?

A. On the basis of the stated restrictions, the proposed occupation would not be incompatible with public accounting and would not constitute a violation of any of the other provisions of the Code.

Use of employer's facilities

Q. Is a practicing member, who is also the business manager of a hospital, in violation of Rule 4.04 if he uses the hospital facilities to conduct his accounting practice?

A. An accountant who works for a hospital and also practices public accounting is not necessarily engaged in a business or occupation incompatible or inconsistent with public accounting unless he is using his position as business manager to feed his accounting practice. If the hospital authorities consent to this arrangement, there is no objection as long as the member conducts his practice in conformity with the Code.

Form of Practice

Association of accountants not partners

Q. Two CPAs, not partners, share an office, have the same employees, have a joint bank account and work together on each other's engagements. Would it be proper to have a joint letterhead showing both names, "Certified Public Accountants," and their address?

A. In these circumstances the public would assume that a partnership existed. If any reports were to be issued under the joint heading, it would be a violation of Rule 4.02.

It is recommended that members avoid the use of a letterhead showing the names of two accountants when a partnership does not exist.

Association of accountants not partners

Q. A firm has a proposal from another partnership for the firms to practice jointly as associates, rather than as partners. It is planned that the staffs of the two firms be combined when necessary on large engagements. Each firm's name would appear on the letterhead of the other in small type as "Associates." In almost all other respects the two practices would be separate—that is, there would be separate names, billing, bookkeeping, and so forth. Is this ethical?

A. The use of the term "Associates" is considered misleading to the public if a partnership does not in fact exist. A number of difficulties arising from affiliations of the type proposed have become apparent. In general, members are advised to form a partnership and have a written partnership agreement which would attempt to provide for most future contingencies and which would leave no one in doubt as to who is responsible for accounting work performed.

Association of firms not partners

Q. Three CPA firms wish to form an association—not a partnership—to be known as "Smith, Jones & Associates." Is there any impropriety in this?

A. The use of such a title is discouraged, since it might mislead the public into thinking a true partnership exists. Instead, each firm is advised to use its own name on its letterhead, indicating the other two as correspondents.

Audit with former partner

Q. An accounting firm consisting of one certified and one noncertified partner has been dissolved. One account was retained which the two practitioners plan to continue to service together. Should the audit report be submitted on partnership stationery?

A. It would appear proper for the audit to be carried out jointly by the two former partners. The opinion should be presented on plain paper and signed somewhat as follows:

John Doe, Certified Public Accountant
Richard Roe, Accountant

In signing this way, there would be no doubt as to whether a partnership existed, and the client and others would have the assurance that both accountants participated in the audit.

Dissolved partnership

Q. A partnership was dissolved with the stipulation that the firm name could be used on opinions that might be issued on the work then in process for two clients. Subsequent to the date of dissolution, a former partner, without the consent of the other former partner, used the partnership name in connection with a statement submitted to the SEC which was a revision of an earlier statement on which the partnership had rendered an opinion. Was this action proper?

A. When a two-man partnership is dissolved, Rule 4.02 permitting the continued use of a partnership name for a reasonable time by a continuing firm does not apply. In this inquiry it is unclear whether the opinion on the revised statement was issued before or after the date when all authority to use the partnership name ceased. Moreover, it

is unclear whether the client involved was one of the two on whose statements the partnership name could be used.

In the circumstances it is felt that the former partner issuing an opinion on the revised statements should have signed the opinion as follows: "Name, formerly a partner of (the accounting partnership name), since dissolved, which firm made the examination(s) referred to above." It is suggested that, in the circumstances, the SEC might be contacted by the inquirer, and the full circumstances explained to them. In this inquiry legal questions concerning the dissolution of the partnership and the continued use of the partnership name are clearly evident.

Employer indebted to employees

Q. A CPA-professor proposes to establish an accounting practice and to employ two of his present students upon their graduation. The students have offered to lend the professor the necessary funds to establish the business. The professor would give them his note and repay the loan, or it may become their capital contribution after they have passed the CPA examination and have become partners in the firm. Would there be any question that the loans from the employees are bona fide loans? Would a profit-sharing plan under which the employees participate in the profits as part of their compensation be construed to mean that the CPA is practicing in partnership with uncertified men?

A. Two possible solutions to this problem are suggested:

1. The present Code does not prohibit a member from practicing in partnership with public accountants; thus, if the law permits, it would appear possible for the professor to form a partnership with the two students. The partnership itself would have to be held out as public accountants, but the CPA could also be held out on the same letterhead individually as a CPA and as an Institute member. The other two members of the partnership would have to be designated as public accountants. This assumes that there would be no violation of the state's accountancy law or of the rules of the local CPA society.

2. The professor could practice public accounting as a sole practitioner by employing his students on an hourly or per diem rate for the time which they devote to the practice. He could pay them time-and-a-half for overtime, or bonuses based upon overtime during tax season or other extraordinary work periods. When the students pass the CPA examination and complete their required experience, it would then be possible to take them in as partners and so eliminate the neces-

sity of having a partnership of "public accountants." The students could make bona fide loans to the professor, provided notes with due dates were issued. If this were to be done, the professor should pay interest regularly and reduce the principal as rapidly as possible. While an employer's being indebted to his employees is not a desirable relationship, there appears to be no ethical impropriety in such an arrangement. There should be a strict understanding with the students that the loans are true business loans and that they would not give the students the right to influence their employer in his practice.

Firm designation

Q. May two members who have formed a partnership use in their firm title the designations "and Company" or "and Associates," or must such designations stand for an unidentified other partner?

A. Because their firm is a true partnership, it would not be a violation of the Institute's Code for two members to use in their firm titles the designations "and Company" or "and Associates," although regulations of some state boards of accountancy require that when the words "and Company" are used, there be one more partner than the number of names in the firm name.

Firm designation

Q. May a member who is a sole proprietor use in his firm title the designation "and Company" or "and Associates"?

A. Rules 3.01 and 4.02 would prohibit a proprietor from using in his firm title the designations "and Company," "and Associates," or "& Co." when "& Co." may be interpreted to mean "Copartnership" or "and Company." The use of such designations by a sole proprietor could be misleading in that they tend to imply a partnership. This ruling would apply even to a proprietor who employs a staff that might include other CPAs and who indicates sole proprietorship in his letterhead by the singular "Certified Public Accountant."

Identical firm with different names

Q. A partner of an accounting firm, whose name appears in the partnership title, has the same name as several clients of the firm, two of which

are audit clients.' In order to avoid the embarrassment of having others ask about the relationship between the auditor and the clients with the same name, it is proposed that a separate accounting firm be formed that does not include in its title the name of the partner in question but which in actuality has the same three partners as the original accounting firm. Is there any impropriety in the simultaneous use of two firm names?

A. Nothing in the Code prohibits the use of two firm names for the same partnership. However, the two firm names should not be used simultaneously if the purpose is simply to improve the appearance of independence. The use of a different partnership name would not eliminate the problem of having clients with the same name as one of the auditing firm's partners. In fact, should a question be raised, the use of the separate firm name for those clients with the same name as the partner would give the impression that there actually is something to hide and might tend to make the firm's independence appear even more questionable.

The members, therefore, are discouraged from adopting the use of two different firm names for the same partnership in these circumstances.

Limited partners

Q. Would there be any violation of the Code if a member became a limited partner of his present firm?

A. It might be possible to work out such an arrangement legally, but the public could hardly be expected to inquire into the details of such a partnership arrangement to determine the relative liability of the individual partners with respect to the opinions rendered by the firm. It would be better for the partner to sever his connections with the firm and make some arrangement to render consulting services on a fee basis.

Non-CPA partner

Q. May a CPA who is in partnership with non-CPAs sign reports with the firm name and below it affix his own signature with the designation "Certified Public Accountant"?

A. This would not be improper, provided it is clear that the partnership itself is not being held out as composed entirely of CPAs.

Nonproprietary partners

Q. A firm wishes to institute the designation "nonproprietary partner" to describe certain high-ranking staff men who were former partners of merged firms who did not qualify for partnership in the merging firm. With this title, they would be eligible to participate in the firm's pension plan. In holding themselves out to the public they would be required to use this designation. Is there any impropriety in the proposed title?

A. The use of the designation "partner" should be restricted to those members of the firm who are legally partners. Those who are not parties to the partnership agreement should not hold themselves out in any manner which might lead others to believe that they are partners. The use of the designation "nonproprietary partner" by one who is not in fact a partner is considered misleading and therefore is not approved.

Partner having separate proprietorship

Q. May a CPA be a member of a firm of public accountants, all other members of which are noncertified, and at the same time retain for himself a practice of his own as a CPA?

A. There would be no violation of the Code in such a procedure. However, clients and others interested should be advised as to the dual position of the CPA to prevent any misunderstanding or misrepresentation.

Partner in two firms

Q. Is it unethical for a CPA to be a partner in two accounting firms?

A. Although nothing in the Code would prohibit a member from being a partner in two separate public accounting firms, such arrangements are discouraged for the following reasons: (1) It would be easy for the two different accounting firms to be on opposite sides of an issue arising between clients of the respective firms. A conflict of interest would clearly exist, at least with respect to the joint partner. (2) The fact that the joint partner would be in a position to violate confidences might create suspicion in the minds of the clients of the two firms. (3) When new clients were referred to the joint partner he would have to decide which partnership was to receive the benefits. This might create unsatisfactory personal relationships.

Partnership with nonregistered accountant

Q. May a member form a partnership for the practice of public accounting with a nonregistered accountant? If so, under what conditions might a branch office be opened?

A. While some state boards and CPA societies have rules prohibiting mixed partnerships, the Institute's Code does not presently prohibit a member from forming a partnership with a non-CPA. Such partnerships are specifically provided for in Opinion No. 17. However, all partners would have to conform to the Code and the partnership would not be permitted to represent itself as a partnership of CPAs. If the partnership were to maintain an out-of-town branch office, the personnel of that office would have to be adequately supervised. Without such supervision the member would be in violation of Rule 4.02 in allowing another to practice in his name. Listings in the telephone directory for the branch office would be governed by Opinion No. 11.

Political election

Q. An accounting firm, consisting of four members, practices under the name of the managing partner who is presently seeking election to high public office. If he is elected and withdraws from the partnership, may the three remaining partners continue to use the present firm name?

A. It would not be a violation for the three remaining partners to continue to practice under the name of the managing partner followed by the designation "and Company" if the managing partner is elected. However, to avoid being misleading, it would be preferable for the firm to practice under the names of the three remaining partners.

Responsibility for non-CPA partner

Q. Is a CPA who has formed a partnership with a noncertified public accountant ethically responsible for all the acts of the partnership?

A. Yes. If the noncertified partner should violate the Code, the CPA would be held accountable.

Retired partners

Q. After his retirement the senior partner of an accounting firm will continue to share in the net income of the firm for five years. Though he will be available for consultation, he will not be actively engaged in practice during his retirement. The following questions arise: (1) How may his name be shown on the firm's letterhead? (2) How should his title and firm affiliation be indicated in the American Institute's membership directory? (3) Even though he has retired, may his name be listed in the yellow pages of the telephone directory?

A. (1) It is proper for a firm to list on its letterhead the names of deceased or retired partners followed by their years of service. The names of retired partners usually appear at the beginning of the roster of partners followed by a line to distinguish them from the active partners. (2) It is common practice for retired partners to be listed as partners of the firm in the Institute's membership directory, if they so desire. (3) If a retired partner has office space or otherwise remains active with the firm, his association with the partnership may be shown in a building directory and in the white pages of the telephone directory. However, he should not have a listing in the yellow pages.

Title, "AICPA members"

Q. Is there any objection to using the designation "Members of the American Institute of Certified Public Accountants" for a partnership in one state if all partners are Institute members, while the partnership in another state may not use the designation because some of the partners are not Institute members?

A. It would be proper to use the designation "Members of the American Institute of Certified Public Accountants" only in the state where all partners are members.

Title, partnership roster

Q. Is there any barrier in the Code to the use of an established firm name in a different state where there is some difference in the roster of partners?

A. It would be proper for the firm to use the established name in different states even though the roster of partners differed as long as the firm otherwise complied with Rule 4.02.

Title, partnership with non-CPA management consultants

Q. A member proposes to form a partnership consisting in part of non-CPA management consultants. This partnership would not be permitted under state law to call itself "certified public accountants." Is there some other form of designation which might be used to distinguish the partnership and its activities from the related all-CPA accounting firm?

A. The partnership cannot indicate that it specializes in any particular service, since it would be bound by the Institute's rules and opinions, particularly Opinion No. 11, prohibiting the indication of specialties.

Data Processing

Accounting and bookkeeping assistance

Q. An accounting firm has been asked by a local bank to render accounting and bookkeeping assistance in connection with a data processing system which the bank intends to market to its customers. The bank would perform all the data processing functions; the accounting firm would review financial statements and make adjustments for accrual basis presentation. The firm would not audit the statements nor would its name appear thereon. The accounting firm would be employed and paid by the bank and would render its services to the bank only. Would this arrangement constitute a violation of the Code?

A. Assuming that the bank was not advertising the CPA's services, it would be proper for the bank to engage his services for review or adjustment of the statements. The CPA could also establish systems by which the bank's data processing department could issue, without reference to any particular customer, accrual basis statements.

Billing service

Q. A practicing member wishes to form a corporation to perform centralized billing services for local doctors. He maintains that this service, which is similar to one currently offered and advertised by a local bank, does not constitute the practice of public accounting and that Rules 4.05 and 4.06 and Opinion No. 7 consequently do not apply. He wishes to circularize local doctors with whom he is acquainted, informing them of the availability of the service. May he proceed with his plan?

A. The activity in question does in fact constitute service of a type performed by public accountants and consequently the member could enter this field only if the operation were conducted in accordance with the Institute's Code, which prohibits advertising, solicitation, and practice in corporate form unless the corporation conforms to resolutions of Council.

Block time

Q. An accounting firm wants to lease to an audit client "block time" on the firm's computer. The client would use its own programmers and its own machine operators during the period in which it uses the firm's computer. Would this arrangement violate the Code?

A. The leasing of "block time" to its clients would not necessarily impair the independence of the accounting firm. However, if the client made a long-term commitment to rent a substantial portion of the available computer time, the arrangement could take on the aspects of a joint venture, in which case the firm would be considered not independent if it were that client's auditor.

Computer center

Q. May a member operate a computer center under the name "Computer Services" which would be listed in the white pages of the telephone directory, but not in the yellow pages?

A. If the services are to be offered to the public, Opinion No. 7 would require that the name chosen for the entity not indicate a specialty such as "Computer Services." On the other hand, if the computer center offers services only to other practitioners, the member would not be considered to be engaged in the practice of public accounting through the center, and the prohibition against fictitious names would not apply.

Computer center

Q. A member firm wants to acquire all the stock of a corporate computer service bureau, dissolve the corporation, and merge its operation into the accounting firm's practice. The service bureau is already doing work for some of the firm's clients, for a local bank, and for the clients of other CPAs. What are the ethical considerations?

A. There would be no objection to offering data processing services to the service bureau's present customers as long as Rule 4.06 is observed. There are practical problems involved in purchasing a computer center servicing clients of other CPAs; although Rule 5.01 states that a member may provide services to those who request it, he should not accept work other than EDP engagements from those who are clients of other CPAs without first discussing the matter with the other CPA.

The accounting firm would have to conduct the EDP practice on a professional level and could not advertise, solicit, or hold itself out as specializing. There is no objection to legitimate referrals from the bank but the bank should not be used as a "feeder."

Computer center, service bureau as client

Q. Would it be proper for a CPA to accept a retainer by a data processing center to investigate the problems of the center's customers (frequently served by other public accountants) and to report to the center his recommendations on the need for data processing equipment? The CPA would assist in the installation of the necessary equipment. He would bill his regular per diem charges to the service center.

A. Such an arrangement would be improper since it would result in the offering of professional consulting services under the name of a commercial processing center. There would be no objection if the service center recommended to its customers that the CPA be retained to determine the need for data processing equipment. The CPA could then bill the client directly for his services.

Computer corporation

Q. An accounting firm wishes to set up a computer corporation of which a firm of computer consultants would be equal owner. The corporation would perform consulting work through the accounting firm only for clients of the firm. The corporation would not offer any services directly to the public. Would such an arrangement violate the Code?

A. Since the corporation would have 50 per cent non-CPA shareholders, in order for the proposed arrangement to meet the requirements of Rules 3.04 and 4.06 and Opinion No. 7 the computer corporation could serve only practitioners and, through them, their clients. The corporation could offer services directly to the public *only* if the cor-

poration complied with Rule 4.06 and possessed all the characteristics required by Council.

Consultant to service bureau

Q. May a practicing CPA assist a corporation in developing a tabulating service to be offered to the public? He would have no financial interest in the corporation and no representations would be made that he or any CPA was connected with the development of the tabulating service.

A. There is no violation in the plan.

Employee not in practice

Q. A member, who has an active CPA certificate and is not in public practice, is employed as executive director of a service center, owned by banks, which offers computer services to bank clients. The stockholder banks want to offer the center's services to CPAs on a fee-association basis. Would the member's association be considered a violation of the Code?

A. The member does not have a financial interest in the corporation and, as long as he remains solely an employee, he would not be in violation of the Code since Opinion No. 7 was intended to apply to practitioners rather than employees. In offering services to the public the center should not identify its executive director as a CPA.

Employee-shareholder in public practice

Q. A member having a public accounting practice is also president and a shareholder of a corporation whose main business is financing but which also engages in adjunct data processing services for the public. Is he acting in accord with Opinion No. 7?

A. Because the member is engaged in a public accounting practice, his relationship to the corporation should be solely that of an investor, and his financial interest in the corporation should not be material to the corporation's net worth. His association with the data processing corporation should be limited to that of a consultant, as opposed to that of an officer and shareholder.

Fee sharing

Q. An accounting firm wishes to set up a data processing center by forming a joint venture with three of its clients—a bank, a professional engineering firm, and a trucking company. The joint venture would be an entity separate from the public accounting firm and would be known as the Blank Data Processing Company. If the joint venture operates at a profit and the profits are divided among the four joint venturers, would this be considered a participation in the fees of professional work by nonpractitioners in violation of Rule 3.04?

A. Yes. Opinion No. 7 states that such services are "of a type performed by public accountants" and that members rendering these services must observe all provisions of the bylaws and the Code. Since Rule 3.04 prohibits the sharing of fees with persons not engaged in public accounting as a principal occupation, the operation of such a separate organization would be prohibited, regardless of the fact that it did not advertise, solicit clients, or practice in corporate form. Such a joint venture with clients would also jeopardize the firm's independence as auditors of those clients. In addition, since the organization would be subject to the profession's ethical restrictions, which prohibit the indication of specialties, it would not be permitted to designate itself as a "data processing" center.

Forwarding fees

Q. CPA Firm A renders data processing services to its clients but uses the electronic equipment of CPA Firm B. Firm B bills Firm A at a reduced rate as compared to its normal billing rates for its own clients. Firm A then bills its clients at a higher rate than it was billed. Is this arrangement ethical?

A. It is not improper for a CPA firm to render data processing services to its clients through the use of the equipment of another CPA firm. There is no objection to the suggested billing mechanics. Firm A receives what is, in effect, a forwarding fee for referring the work to Firm B, and there is currently no prohibition in the Code against forwarding fees. While some CPAs do not accept forwarding fees on the ground that such fees add to the cost of an engagement to the client without adding anything of value to the work that is done, it could also be argued that Firm A assumes responsibility for the work of Firm B for which it should be compensated. In any event, it does not appear that the clients of Firm A are paying more for services than they would pay if dealing directly with Firm B.

Partnership with non-CPA

Q. A member proposes to form a partnership to render tabulating services with a noncertified unlicensed accountant in a regulatory state. The partnership will solicit business from practicing CPAs and public accountants only. The noncertified accountant is also the sole owner of a local service bureau. There is to be no connection between this company and the proposed partnership. The partnership would operate within the framework of the Code. Is the proposed arrangement ethical?

A. A connection between the service bureau and the proposed partnership would be established in that the noncertified accountant would be the owner of a tabulating service dealing with the general public, and at the same time would be a partner with a CPA in a firm offering services to practicing public accountants. Such an arrangement would bring about a violation of the Code. The danger is that the service bureau might be used as a "feeder" to the public accounting practice, and the CPA involved might indirectly obtain the advantages of advertising, solicitation, and other activities which he is prohibited from performing directly. The plan, therefore, would not be approved.

Relations with Fellow Members

Encroachment—Rule 5.01

Encroachment

Audits of bank customers

Q. A CPA firm has been requested by a commercial bank to audit certain of the records of borrowers and potential borrowers. The bank has requested that the accountants bill the borrowers directly for services rendered. In some cases the borrower engages the services of another public accountant. May the firm undertake such engagements?

A. There is nothing unethical in a member's examining the records of a customer of a bank at the bank's request. The member should be particularly careful to observe the professional courtesies, particularly when the borrower already has a CPA. Such CPA should be put on notice that at the bank's request the member is going to do some professional work for his client.

However, there is inherent danger in the situation. If any customer of the bank for which the member does limited auditing work becomes his regular client, to the loss of another CPA, the latter may charge improper conduct on the part of the banker's CPA.

Audits of clients which are local affiliates

Q. A national charitable organization has recommended to its state affiliates that they engage the organization's independent auditors so that an unqualified opinion may be rendered by one firm on the consolidated statements. Representatives of the firm auditing the national organization notified the incumbent accountant of a local affiliated group that they had given the local group an estimate of their fee for performing the audit. They said it was necessary for their firm to do a larger number of the state divisions to "give substance to their opinion on the annual report." They were accompanied by a representative of the national office when they visited the client's local office. Is their action professionally and ethically proper?

A. Under Rule 2.01 a member, in expressing his opinion on financial statements, may utilize in part, to the extent appropriate, the work of other accountants. However, it is unusual for a CPA to express an unqualified opinion unless he has performed a substantial part of the examination. Although this development may result in the displacement of the auditors of the local organization, the national organization still has a right to make recommendations to its affiliates, and it is not a violation of Rule 5.01 for its auditors to respond to such requests.

Bond issue

Q. May a firm accept consulting assignments from municipal governments in connection with bond issues, when the firm believes the assignments may lead to an eventual request by the municipality that the firm perform the annual audit of the municipality, a service currently rendered by another accounting firm?

A. As long as the firm does not solicit the audit engagement, there would be no reason why it should not accept consulting assignments from municipalities audited by other CPAs. It has been found a good practice for firms, when they have been requested to perform consulting services for municipalities, to inform the auditors of the municipality.

Consulting engagement

Q. A member gave advice on a tax question to a client that he had served for the past ten years. Subsequently, the client, with the approval of the member, submitted the question to another CPA firm which concurred with the member's advice on the tax question. Afterwards, the other CPA firm sent a general client memorandum dealing with taxes to the client. Has the second CPA firm violated Rules 3.02 and 5.01 of the Code?

A. At the conclusion of an engagement that is clearly a consulting engagement for a specific question, the client relationship ceases. This is especially true if the client is being served on a regular basis by another accountant. If the accounting firm consulted on the tax question understood that the local practitioner was the client's regular accountant and that its services were being sought only for the tax question, it should have been apparent that the client relationship ended with the rendering of its report. Opinion No. 9 provides that newsletters should not be sent to nonclients unless they specifically request them.

Estimate submitted with no prior relationship

Q. A CPA firm has been requested by a government client it has served for two years to submit a fee estimate on the audit for the current year. Prior to beginning its third consecutive annual audit, the firm is notified that a second CPA firm with no prior professional relationship to the government unit has approached it and has submitted a lower estimate. Is the second CPA firm in violation of Rules 3.02 and 5.01 of the Code?

A. Yes. Moreover, if it offered to perform work for the government unit for a clearly inadequate fee, it would also be in violation of Opinion No. 18.

Insurance loss assignments

Q. A major portion of the practice of a particular partnership is insurance loss assignments. These assignments are received by accounting firms on a case-by-case basis from insurance loss adjusters who have been employed by insurance companies. The partnership agreement provides that no member of the firm who withdraws from the partnership will accept engagements from clients of the partnership. Despite this agreement, one of the partners, after withdrawal from the firm, did accept engagements from insurance loss adjusters for whom the firm had performed services before his withdrawal. Does the withdrawn partner violate Rule 1.02 by rendering accounting service to the adjusters despite the agreement with his former partnership? Is his service to the adjusters a violation of Rules 3.02 and/or 5.01?

A. Interpretation of the terms and obligations of a formal partnership agreement is a legal matter and there is no indication that a court would find the partnership agreement to have been breached. Each insurance loss assignment is a single engagement and does not establish a recurring client relationship with the loss adjuster or the company he represents. In the circumstances, it would not be improper for the withdrawn partner to accede to the request of insurance loss adjusters for his services.

Successor partnership

Q. Three months after withdrawing from an accounting partnership, a former partner asks the firm to make available to him the working papers and tax files of a client of the partnership which the former partner has been asked to serve. Assuming that there had been no

contact with the client except for the firm's notice of the withdrawal, is the former partner encroaching on the practice of the firm? Is the firm obligated to furnish working papers and tax files relating to the client of the former partner?

A. Clients have the right to choose whether to retain the partnership or to be served by the withdrawn partner, and no time limit can reasonably be set to their making this choice. With regard to the availability of the working papers the important question is whether the client's interests are being served. If a client elects to be served by the former partner, the partnership should continue to furnish working papers as long as the former partner needs them to best serve the client.

Tax committee chairman

Q. May an Institute member not in public practice serve as chairman of a taxation committee of a trade association of which he is a member? The committee, which has on its membership both another CPA and an attorney, offers tax advice to members of the association.

A. A member not in public practice could serve in such voluntary capacity so long as the advice was given without charge by the association or the committee or its membership individually, and is freely available as a service to all association members.

Use of firm's economic power

Q. A member causes his firm to do the following: (1) Shift deposits of a significant amount to a nonclient bank for the purpose of inducing the bank to give his firm's trust department tax work presently done by other accountants, and (2) Place insurance of significant amount with a nonclient insurance company for the principal purpose of inducing the insurance company to give his firm audit work presently done by other accountants. Are such actions in violation of the Code?

A. Reciprocity in business relationships is a normal and widespread practice. A member may reasonably expect that banks and others with whom he does business will be influenced to use his services or recommend his services to others. However, the deliberate use of a firm's economic power to obtain engagements or referrals from others is a violation of Rule 3.02, and, if they are clients of other accountants, of Rule 5.01.

General

General

Auditor engaged by attorney

Q. A CPA has been engaged by an attorney to do accounting work for an estate. The accountant has prepared his report, but instead of consulting with the attorney, he plans to submit it directly to the administrator. Is this a violation?

A. While it would be desirable for the accountant to notify the attorney of the completion of his report, there is no violation of professional ethics in the accountant's submitting the report directly to the administrator.

Auditor engaged by company president

Q. The president of a corporation who owns 70 per cent of its common stock called in a CPA to audit the books for the purpose of using the financial statements to increase the mortgage on corporation property. The board of directors had not been advised, even informally, of the proposal. Should the CPA have requested a letter from the president authorizing him to perform the services, in which it would be stated that the matter had been approved by the board of directors?

A. There is no reason why a member, at the request of the president and major stockholder of a corporation, should not prepare financial statements for the company for any purpose. The CPA could assume that it is up to the president to clear such matters with the board of directors and the stockholders and to comply with any legal technicalities that might be necessary in connection with increasing the mortgage indebtedness.

Bookkeeping service as "feeder"

Q. A member contemplates opening an office and subletting space to a business service organization which offers bookkeeping, secretarial, and telephone answering services. If the bookkeeping service advertises and otherwise solicits customers, can any impropriety be imputed to the member because of the tenant-lessor arrangement? In using the secretarial services of the organization for the typing of tax returns, audit reports and other client papers, would there be a violation of the confidential relationship between the member and his clients?

A. The proposed plan, if not an actual violation of the rules, would come so close to being one that the member is advised not to proceed with it.

If the service company were housed in the same quarters, the general public would assume that there is only one operation. There is also the danger that the subtenant's activities would serve as a "feeder" to the member's practice.

The rule on confidential relationships does not preclude the use of outside agencies to prepare client information, but a member is responsible for seeing that the confidential relationship is not violated.

Employment ads, "help wanted" for firm

Q. An accounting firm ran a classified ad offering employment in accounting and directing applicants to write to a box number. The ad stated that no references would be checked until after the firm's representative had met the applicant and that all confidences would be respected. Does such an ad constitute a violation of Rule 5.03, prohibiting offers of employment to employees of other public accountants without first informing such accountants?

A. There is no violation in the ad.

Employment by non-CPA firm

Q. CPAs are sometimes employed by accounting firms made up of non-certified practitioners. Such firms, particularly in permissive states, may not be subject to rules of conduct. These firms sometimes advertise, solicit clients, bid competitively, and engage in other unprofessional activities. While it is clear that an Institute member could not be a partner of a firm which did not abide by the profession's standards, may he be an employee of such a firm?

A. The Code does not explicitly forbid the employment of members by public accounting firms which do not observe ethical standards. It would clearly be wrong for the CPA staff man to sign an audit report using his professional title. Furthermore, he could not consent to the use of his name and title in any of the activities of the non-certified firm.

This still leaves open the question of what the member's obligations are when he learns that his employers do not conduct an ethical practice. Rule 4.05 says, in effect, that a member must observe the rules in the conduct of an occupation in which he renders services of a type performed by public accountants. The CPA might argue that he himself does observe the rules; it is his employers who do not. He might say that since he is on a fixed salary he does not benefit from the unethical activities of his employers and that, therefore, there is no violation of the principle that a member may not carry out through others that which he is forbidden to do directly. There appears to be no improper sharing of professional fees or acceptance of commissions, since the noncertified firm is engaged in the practice of public accounting as a principal occupation.

Nevertheless, members are urged not to put themselves in this position, even though there may be no technical violation of the profession's Code. Such an association would almost surely damage the member's professional standing and it might have an important effect on his future, either as an employee of another firm or as an independent practitioner. Such an employee would be required to follow the instructions of his employer. Therefore, he would inevitably be guilty of infractions himself, and his position would eventually become untenable.

It is, therefore, recommended that the member in question either leave the employ of such a firm or attempt to persuade it to abide by the profession's rules. From the points of view of the profession and of the individual himself, the desirable solution would be for him to be admitted to partnership; the entire firm would then be brought under the Institute's ethical rules.

Employment contract

Q. A college senior entered into an employment contract with Firm A before graduating. While at college he had been working part-time for Firm B who later asked him to continue with the firm after graduation. Firm B has offered to arrange his release from the contract with the other firm. Would this be ethical?

A. The question involves more a matter of paternal guidance than an interpretation of any rule of conduct. If the student prefers to carry out his contract, he should state clearly that he does not wish to start his professional life with a broken contract. If his preference is to continue with his present employer, there is no reason why such employer should not try to obtain his release from the contract. Most firms would not care to engage an employee who was dissatisfied because he had wanted to take another position.

Employment contract

Q. What is the position of the Institute with regard to a member who requires that a prospective employee sign a contract restricting his freedom to work for others after termination of his employment with the accounting firm?

A. There is nothing wrong in having an employee sign an agreement that during the period of employment he would work only for his employer. However, contracts restricting the employee's freedom to work after he leaves the CPA's employ are discouraged. A prospective employee seeking a place in the profession would be put at a severe disadvantage by such an agreement.

Employment contract

Q. After receiving his CPA certificate, an employee left the public accounting firm for which he worked and began an independent practice in the same city. This was in violation of a written employment contract which stated that if he left the firm's employ he could not practice within 100 miles of the city for two years after leaving. Is violation of the contract sufficient cause for disciplinary action?

A. No opinion is expresed on the legality of the contract, but such restrictive contracts are not considered desirable from the standpoint of the profession. A young man seeking employment is not likely to weigh the future consequences of such an agreement. Therefore, violation of restrictive employment contracts of this kind would not warrant punitive action by the Institute.

Employment notification

Q. A member who had lost some of his staff to another accounting firm asserts "employees are interviewed and hired without calling the present employer. The latter must be informed so that he can negotiate with his employee before he is lost irrevocably. We have recently lost these employees without hearing a word from their future employer." Has Rule 5.03 been violated?

A. Rule 5.03 requires notification to the accountant-employer only if the employing firm initiated the offer of employment. The second sentence of the rule ("This rule shall not be construed so as to inhibit negotiations with anyone who of his own initiative or in response to public advertisement shall apply to a member or associate for employment") modifies the requirement of notification contained in the first sentence of the rule. If an applicant, who is presently employed by another public accountant, seeks employment on his own or in response to public advertisement, Rule 5.03 permits a final offer of employment to be made without first notifying the other public accountant, although such notice is encouraged to promote intraprofessional harmony.

Employment of staff of other accounting firms on behalf of client

Q. Accounting firms have on behalf of clients made approaches to members of the staff of other accounting firms suggesting that they consider executive positions with some of the firm's industrial clients. Does Rule 5.03 of the Code apply to such activities?

A. Rule 5.03 should be limited to overtures of employment by accounting firms made on their own behalf only. If the employee of another public accountant is to be contacted in a recruiting effort, notice should be given to the other public accountant. Executive search on behalf of a client is considered to be a legitimate engagement to which Rule 5.03 would not apply.

Fees, collection of notes issued in payment

Q. An accounting firm made arrangements with a bank to collect notes issued by a client in payment of fees due, and so advised the delinquent client. Is this procedure ethical?

A. The procedure followed does not violate any provision of the Code.

Fees, notification of change

Q. A client had been served by Firm A which was later merged with Firm B. The new firm continued to perform the same services rendered by its predecessors. Without notice to the client the new firm rendered an invoice for its fee for double the amount charged by the predecessor firm in previous years. A partner of the new firm contended that the charges of the predecessor firm were too low and that his firm was exercising its right to make a necessary correction. Does proper professional procedure require the giving of notice to the client when it is anticipated that the fee will be doubled?

A. Fee arrangements are a matter of negotiation between the CPA and his client. Since disagreements over fees might ultimately result in legal action, the Institute rarely intervenes in such a dispute.

While the general practice is to negotiate in advance for any change in fee arrangements, sometimes the fee (other than billings on account) is set at the conclusion of the engagement, when the accountant's time records are available and any unusual conditions are known. If a fee is increased, many firms disclose to the client to what extent the increase is the result of an increase in rates.

Generally in such cases, as an administrative matter, a firm should inform the client promptly when it becomes apparent that a substantial increase in the fee will have to be made. It is recommended that members discuss fees openly with clients to avoid any misunderstandings.

Fictitious names

Q. Should non-CPA partnerships formed by accounting firms to provide management services be permitted to use all, or part of, the name of the CPA firm, together with the name of a non-CPA enterprise which, prior to its absorption by the CPA firm, has engaged in nonprofessional promotional activities such as advertising and solicitation? Should Opinion No. 17 be revised to require that at least one partner of a firm be competent to supervise specialized management services performed by that firm through its "principals"?

A. There is nothing improper in elements of the title of a public accounting firm appearing in the title of a separate but related partnership engaged in offering services of a type performed by public accountants, since that partnership would have to observe the Code and could not advertise or solicit. However, the second partnership could not hold itself

out as CPAs, nor could it indicate specialized services it is prepared to offer. It is an objective of the Institute that CPAs provide the full range of management services consistent with their professional competence, ethical standards, and responsibility. While it is true that a member may not be as knowledgeable in a particular field as the specialist performing the engagement, competence to supervise does not require the detailed knowledge necessary to have competence to perform. The public is protected because a supervising partner is no less responsible for proper performance than if he performed the engagement himself.

Fictitious names

Q. A member has been admitted into a partnership in a well-established firm practicing under the name "Midwest Accountants." Is such a fictitious name title consistent with the provisions of Rule 4.02 of the Code, which prohibits a member from practicing in the name of another?

A. A fair reading of Rule 4.02 would prohibit a member from practicing under a fictitious or impersonal designation such as "Midwest Accountants." The use of such names has been criticized in the past since it is believed that a firm of practicing CPAs should have a name denoting personal association. It should also be noted that the laws of several states specifically prohibit CPAs from adopting names of this type.

Member as internal auditor

Q. A member has become an employee of a company with extensive outside interests. The employer asks the member to make audits of these corporate interests and render an opinion primarily for the company's own information. These reports would undoubtedly be available to the stockholders. Would there be any violation if these examinations were made and signed by the member?

A. If the member has given up practice as a public accountant, he may properly perform any services required by his employer, including making an examination of the accounts of minority-owned companies. He may use the CPA title, although his status as an employee should be made clear in the reports.

Referrals by bank

Q. A member has an office in a building owned and occupied by a bank of which his father is president. The father refers customers to the son for the preparation of financial statements used by the bank for credit purposes. Is this situation ethically sound?

A. There is no reason why the father should not favor the son, if he is a competent practitioner and does not violate the confidential relationship and fee splitting rules. The bank, however, could not be one of the son's audit clients.

Specialization, acquisitions and mergers

Q. May an accounting firm maintain a department whose function is to bring together business merger or acquisition prospects?

A. There is no impropriety involved if an accounting firm renders services in connection with business acquisitions and mergers, provided all provisions of the bylaws and Code are observed.

For example, a member could not hold himself out as a specialist in acquisitions and mergers nor could he advertise, solicit clients, or encroach upon the practice of other public accountants. In addition, he would be prohibited from receiving commissions or accepting fees which were contingent upon the findings or results of his services.

Tax practice, conflict of interest

Q. A member is in partnership with a non-CPA who is a former internal revenue agent with several years' experience as a practitioner specializing in taxes. Tax work accounts for approximately one-half of the firm's gross fees. The non-CPA has been asked to serve, without compensation, as the public member of the board of tax appeals recently established under a municipal income tax ordinance. Would his acceptance be advisable, provided he disqualified himself in any matter with which he was directly or indirectly connected?

A. If the firm did not handle municipal tax matters for the municipality there would be no immediate conflict of interest; however, the position should be declined since it would probably be difficult for the partnership to avoid future conflicts of interest.

Tax work obtained through bookkeeper

Q. A bookkeeping company has asked a CPA to prepare tax returns on the basis of work sheets provided for the company by its customers. May the CPA enter into such an agreement? If so, may he do the returns at a fixed fee, and is he required to sign them even though the taxpayer is not his client? There would be no direct contact between the CPA and the customers of the corporation nor any indication to them of his identity.

A. The member could not properly enter into such an agreement. The bookkeeping service would obtain customers by advertising and solicitation. The CPA would indirectly receive the benefit of these unethical activities. The member must not carry out through others acts which he is prohibited from doing directly under the Institute's Code. (See Opinion No. 2.) It is also of note that Treasury Department regulations require anyone who prepares a tax return for another taxpayer to sign a declaration that he has examined the return and found it to be true, correct, and complete. The CPA could not properly do this without having had some direct contact with the taxpayer regarding the information contained in the return.

Testimony as expert witness

Q. How far may a CPA go in testifying as an expert witness in tax fraud cases? When he gives testimony that is proved false, can he be charged, under Rule 1.02, with having committed an act discreditable to the profession?

A. A member may testify as an expert witness as long as he is technically competent to do so. He must bear in mind, however, that he is being called upon to express an independent professional opinion and that he must therefore observe the required technical and ethical standards.

If it were shown that statements, schedules or testimony presented by him contained material misstatements, he could be charged with a violation of Rule 1.02.

Appendixes

Code of Professional Ethics
Numbered Opinions

APPENDIX A

Code of Professional Ethics

As Amended December 30, 1969

The reliance of the public and the business community on sound financial reporting and advice on business affairs imposes on the accounting profession an obligation to maintain high standards of technical competence, morality and integrity. To this end, a member or associate of the American Institute of Certified Public Accountants shall at all times maintain independence of thought and action, hold the affairs of his clients in strict confidence, strive continuously to improve his professional skills, observe generally accepted auditing standards, promote sound and informative financial reporting, uphold the dignity and honor of the accounting profession and maintain high standards of personal conduct.

In further recognition of the public interest and his obligation to the profession, a member or associate agrees to comply with the following rules of ethical conduct, the enumeration of which should not be construed as a denial of the existence of other standards of conduct not specifically mentioned:

ARTICLE 1: Relations with Clients and Public

1.01 Neither a member or associate, nor a firm of which he is a partner, shall express an opinion on financial statements of any enterprise unless he and his firm are in fact independent with respect to such enterprise.

Independence is not susceptible of precise definition, but is an expression of the professional integrity of the individual. A member or associate, before expressing his opinion on financial statements, has the responsibility of assessing his relationships with an enterprise to determine whether, in the circumstances, he might expect his opinion to be considered independent, objective and unbiased by one who had knowledge of all the facts.

A member or associate will be considered not independent, for example, with respect to any enterprise if he, or one of his partners,

(a) during the period of his professional engagement or at the time of expressing his opinion, had, or was committed to acquire, any direct financial interest or material indirect financial interest in the enterprise, or (b) during the period of his professional engagement, at the time of expressing his opinion or during the period covered by the financial statements, was connected with the enterprise as a promoter, underwriter, voting trustee, director, officer or key employee. In cases where a member or associate ceases to be the independent accountant for an enterprise and is subsequently called upon to re-express a previously expressed opinion on financial statements, the phrase "at the time of expressing his opinion" refers only to the time at which the member or associate first expressed his opinion on the financial statements in question. The word "director" is not intended to apply to a connection in such a capacity with a charitable, religious, civic or other similar type of nonprofit organization when the duties performed in such a capacity are such as to make it clear that the member or associate can express an independent opinion on the financial statements. The example cited in this paragraph, of circumstances under which a member or associate will be considered not independent, is not intended to be all-inclusive. [See Opinion Nos. 12, 15 and 16.]

1.02 A member or associate shall not commit an act discreditable to the profession.

1.03 A member or associate shall not violate the confidential relationship between himself and his client. [See Opinion No. 3.]

1.04 Professional service shall not be rendered or offered for a fee which shall be contingent upon the findings or results of such service. This rule does not apply to cases involving federal, state, or other taxes, in which the findings are those of the tax authorities and not those of the accountant. Fees to be fixed by courts or other public authorities, which are therefore of an indeterminate amount at the time when an engagement is undertaken, are not regarded as contingent fees within the meaning of this rule.

ARTICLE 2: Technical Standards

2.01 A member or associate shall not express his opinion on financial statements unless they have been examined by him, or by a member or employee of his firm, on a basis consistent with the requirements of Rule 2.02.

In obtaining sufficient information to warrant expression of an opinion he may utilize, in part, to the extent appropriate in the cir-

cumstances, the reports or other evidence of auditing work performed by another certified public accountant, or firm of public accountants, at least one of whom is a certified public accountant, who is authorized to practice in a state or territory of the United States or the District of Columbia, and whose independence and professional reputation he has ascertained to his satisfaction.

A member or associate may also utilize, in part, to the extent appropriate in the circumstances, the work of public accountants in other countries, but the member or associate so doing must satisfy himself that the person or firm is qualified and independent, that such work is performed in accordance with generally accepted auditing standards, as prevailing in the United States, and that financial statements are prepared in accordance with generally accepted accounting principles, as prevailing in the United States, or are accompanied by the information necessary to bring the statements into accord with such principles.

2.02 In expressing an opinion on representations in financial statements which he has examined, a member or associate may be held guilty of an act discreditable to the profession if:

(a) he fails to disclose a material fact known to him which is not disclosed in the financial statements but disclosure of which is necessary to make the financial statements not misleading; or

(b) he fails to report any material misstatement known to him to appear in the financial statement; or

(c) he is materially negligent in the conduct of his examination or in making his report thereon; or

(d) he fails to acquire sufficient information to warrant expression of an opinion, or his exceptions are sufficiently material to negative the expression of an opinion; or

(e) he fails to direct attention to any material departure from generally accepted accounting principles or to disclose any material omission of generally accepted auditing procedure applicable in the circumstances. [See Opinion Nos. 8 and 18.]

2.03 A member or associate shall not permit his name to be associated with statements purporting to show financial position or results of operations in such a manner as to imply that he is acting as an independent public accountant unless he shall:

(a) express an unqualified opinion; or

(b) express a qualified opinion; or

(c) express an adverse opinion; or

(d) disclaim an opinion on the statements taken as a whole and indicate clearly his reasons therefor; or

(e) when unaudited financial statements are presented on his stationery without his comments, disclose prominently on each page of the financial statements that they were not audited. [See Opinion Nos. 8, 13 and 15.]

2.04 A member or associate shall not permit his name to be used in conjunction with any forecast of the results of future transactions in a manner which may lead to the belief that the member or associate vouches for the accuracy of the forecast. [See Opinion No. 10.]

ARTICLE 3: Promotional Practices

3.01 A member or associate shall not advertise his professional attainments or services.

Publication in a newspaper, magazine or similar medium of an announcement or what is technically known as a card is prohibited.

A listing in a directory is restricted to the name, title, address and telephone number of the person or firm, and it shall not appear in a box, or other form of display or in a type or style which differentiates it from other listings in the same directory. Listing of the same name in more than one place in a classified directory is prohibited. [See Opinion Nos. 1, 2, 4, 9 and 11.]

3.02 A member or associate shall not endeavor, directly or indirectly, to obtain clients by solicitation. [See Opinion Nos. 1, 9, 11 and 18.]

3.03 A member or associate shall not make a competitive bid for a professional engagement. Competitive bidding for public accounting services is not in the public interest, is a form of solicitation, and is unprofessional.*

3.04 Commissions, brokerage, or other participation in the fees or profits of professional work shall not be allowed or paid directly or indirectly by a member or associate to any individual or firm not regularly engaged or employed in the practice of public accounting as a principal occupation.

Commissions, brokerage, or other participation in the fees, charges or profits of work recommended or turned over to any individual or firm not regularly engaged or employed in the practice of public

* On the advice of legal counsel that Rule 3.03 subjects the Institute and its representatives to risks under the federal antitrust laws, the Institute's Board of Directors, Council and division of professional ethics have decided that the Institute will continue to refrain from taking any disciplinary action against any member or associate under Rule 3.03 until there has been a change in circumstances that would justify a different opinion on the legal status of the Rule.

accounting as a principal occupation, as incident to services for clients, shall not be accepted directly or indirectly by a member or associate. [See Opinion Nos. 6 and 17.]

ARTICLE 4: Operating Practices

4.01 A firm or partnership, all the individual members of which are members of the Institute, may describe itself as "Members of the American Institute of Certified Public Accountants," but a firm or partnership, not all the individual members of which are members of the Institute, or an individual practicing under a style denoting a partnership when in fact there be no partner or partners, or a corporation, or an individual or individuals practicing under a style denoting a corporate organization shall not use the designation "Members of the American Institute of Certified Public Accountants."

4.02 A member or associate shall not practice in the name of another unless he is in partnership with him or in his employ, nor shall he allow any person to practice in his name who is not in partnership with him or in his employ.

This rule shall not prevent a partnership or its successors from continuing to practice under a firm name which consists of or includes the name or names of one or more former partners, nor shall it prevent the continuation of a partnership name for a reasonable period of time by the remaining partner practicing as a sole proprietor after the withdrawal or death of one or more partners.

4.03 A member or associate in his practice of public accounting shall not permit an employee to perform for the member's or associate's clients any services which the member or associate himself or his firm is not permitted to perform. [See Opinion No. 17.]

4.04 A member or associate shall not engage in any business or occupation conjointly with that of a public accountant, which is incompatible or inconsistent therewith.

4.05 A member or associate engaged in an occupation in which he renders services of a type performed by public accountants, or renders other professional services, must observe the bylaws and Code of Professional Ethics of the Institute in the conduct of that occupation. [See Opinion Nos. 7 and 17.]

4.06 A member or associate may offer services of a type performed by public accountants only in the form of either a proprietorship, or a partnership, or a professional corporation or association whose characteristics conform to resolutions of Council.

The following list of such characteristics was approved by the Institute's Council on May 6, 1969:

. . . RESOLVED, that members may be officers, directors, stockholders, representatives or agents of a corporation offering services of a type performed by public accountants only when the professional corporation or association has the following characteristics:

1. *Name.* The name under which the professional corporation or association renders professional services shall contain only the names of one or more of the present or former shareholders or of partners who were associated with a predecessor accounting firm. Impersonal or fictitious names, as well as names which indicate a specialty, are prohibited.

2. *Purpose.* The professional corporation or association shall not provide services that are incompatible with the practice of public accounting.

3. *Ownership.* All shareholders of the corporation or association shall be persons duly qualified to practice as a certified public accountant in a state or territory of the United States or the District of Columbia. Shareholders shall at all times own their shares in their own right, and shall be the beneficial owners of the equity capital ascribed to them.

4. *Transfer of Shares.* Provision shall be made requiring any shareholder who ceases to be eligible to be a shareholder to dispose of all of his shares within a reasonable period to a person qualified to be a shareholder or to the corporation or association.

5. *Directors and Officers.* The principal executive officer shall be a shareholder and a director, and to the extent possible, all other directors and officers shall be certified public accountants. Lay directors and officers shall not exercise any authority whatsoever over professional matters.

6. *Conduct.* The right to practice as a corporation or association shall not change the obligation of its shareholders, directors, officers and other employees to comply with the standards of professional conduct established by the American Institute of Certified Public Accountants.

7. *Liability.* The stockholders of professional corporations or associations shall be jointly and severally liable for the acts of a corporation or association, or its employees—except where professional liability insurance is carried, or capitalization is maintained, in amounts deemed sufficient to offer adequate protection to the public. Liability shall not be limited by the formation of subsidiary or affiliated corporations or associations each with its own limited and unrelated liability.

In a report approved by the Council at the fall 1969 meeting, the Board of Directors recommended that professional liability insurance or capitalization in the amount of $50,000 per shareholder/officer and professional employee to a maximum of $2,000,000 would offer adequate

protection to the public. Members contemplating the formation of a corporation under this rule should ascertain that no further modifications in the characteristics have been made.

ARTICLE 5: Relations with Fellow Members

5.01 A member or associate shall not encroach upon the practice of another public accountant. A member or associate may furnish service to those who request it. [See Opinion Nos. 1, 9 and 11.]

5.02 A member or associate who receives an engagement for services by referral from another member or associate shall not discuss or accept an extension of his services beyond the specific engagement without first consulting with the referring member or associate.

5.03 Direct or indirect offer of employment shall not be made by a member or associate to an employee of another public accountant without first informing such accountant. This rule shall not be construed so as to inhibit negotiations with anyone who of his own initiative or in response to public advertisement shall apply to a member or associate for employment.

APPENDIX B

Numbered Opinions

Of the Division of Professional Ethics

OPINION NO. 1: Newsletters, Publications

Impropriety of members' furnishing clients and others with tax and similar booklets prepared by others and imprinted with firm name of member

In the opinion of the committee, imprinting the name of the accountant on newsletters, tax booklets or other similar publications which are prepared by others and distributed by a member of the Institute does not add to the usefulness of the material to the reader. Use of the imprint, in the committee's opinion, is objectionable in that it tends to suggest (and has been interpreted by many as a means of) circumventing Rule 3.01 of the Code of Professional Ethics, which says that a member shall not advertise his services.

It is the conclusion of the committee that distribution of newsletters, tax booklets or similar publications, prepared by others, when imprinted with the name of the accountant furnishing the material, is not in the interest of the public or the profession.

The committee sees no grounds for objection to furnishing material of the type indicated to clients or others provided that such material does not carry the imprint described and provided that such distribution is limited in a manner consistent with Rules 3.02 and 5.01.

OPINION NO. 2: Responsibility of Member for Acts of Others on His Behalf

Member may not carry out through others acts which he is prohibited from directly performing under the Institute's bylaws and Code of Professional Ethics

A member should not cause others to carry out on his behalf either with or without compensation acts which, if carried out by a member, would place him in violation of the Institute's Code or bylaws. To illus-

trate this principle, the committee has ruled that a member would be in violation of the Institute's Code of Professional Ethics if, with his approval:

1. A nonprofit organization in recognition of accounting services which had been rendered by a member placed without charge an advertisement of the firm in the organization's bulletin;
2. A bank announced to its depositors that a CPA would be at a desk on the main floor of the bank at certain hours and days during the tax season to assist customers in preparation of tax returns for a fee;
3. A trade association in its official publication announced that a certain certified public accountant, member of the Institute, who long had served the association as independent accountant, was especially well qualified and available to assist association members in dealing with accounting and tax problems peculiar to the industry.

OPINION NO. 3: Confidence of a Client

Member selling accounting practice should not give the purchaser access to working papers, income tax returns, and correspondence pertaining to accounts being sold without first obtaining permission of client

The seller of an accounting practice has a duty under Rule 1.03, pertaining to confidential relations, first to obtain permission of the client to make available to a purchaser working papers and other documents.

OPINION NO. 4: Authorship of Books and Articles

Responsibility of author for publisher's promotion efforts

Many members of the Institute are especially well qualified to write authoritatively on accounting, taxes, auditing, management and related subjects and, in the interests of the public and the profession, are encouraged to write articles and books for publication. In the opinion of the committee it is of value to the reader to know the author's background (degrees he holds, professional society affiliation and the firm with which he is associated). It is held that publication of such information is not in violation of Rule 3.01.

It is the opinion of the committee that a member of the Institute has the responsibility to ascertain that the publisher or others promoting distribution of his work keep within the bounds of professional dignity and do not make claims concerning the author or his writing that are not factual or in good taste.

OPINION NO. 5: Prohibited Self-Designations

Use of title "Tax Consultant," "Tax Specialist" or similar description forbidden

The "Statement of Principles Relating to Practice in the Field of Federal Income Taxation, Promulgated in 1951 by the National Conference of Lawyers and Certified Public Accountants," was approved by the Institute's Council. Section 5 of this statement reads as follows:

> 5. *Prohibited Self-Designations.* An accountant should not describe himself as a 'tax consultant' or 'tax expert' or use any similar phrase. Lawyers, similarly, are prohibited by the canons of ethics of the American Bar Association, and the opinions relating thereto, from advertising a special branch of law practice.

Under Article V, Section 4, of the Institute's bylaws a member renders himself liable to expulsion or suspension by the Trial Board if he refuses to give effect to any decision of the Institute or the Council.

It is the opinion of the committee that a reasonable period of time has elapsed since the adoption of the Statement of Principles by Council within which the members could revise their stationery, directory and other listings so as to conform with the Statement.

OPINION NO. 6: Sharing of Fees

Sharing of fees with individuals or firms not engaged or employed in the practice of public accounting prohibited

Rule 3.04 prohibits a member or associate from receiving or paying a commission or sharing fees or profits with any individual or firm not regularly engaged or employed in the practice of public accounting as a principal occupation.

The rule does not prevent the payment or receipt of compensation for public accounting services rendered by an employee or consultant, whether such services are on a part- or full-time basis and whether the method of payment is on an hourly or fixed basis or is measured by the fees or profits resulting from the engagement.

The rule does prevent the sharing of fees or profits or the payment or receipt of a commission in those cases where the recipient rendered no services unless he was regularly engaged in public accounting as a principal occupation.

The committee believes that the existence of more than one "principal occupation" presents no difficulty unless any of the occupations are incompatible with the practice of public accounting. Whether or not an individual is engaged in the practice of public accounting as a principal occupation is a question of fact. The maintenance of an office or desk

space, a listing in a directory, the possession of a license if one is required, and the availability for the performance of accounting services on a fee basis are all factors in making this determination.

The fact that an individual is a certified public accountant does not of itself indicate that such individual is "regularly engaged or employed in the practice of public accounting as a principal occupation." Rule 3.04 is not intended to apply to or prevent payments to a retired partner, employee or proprietor of a public accounting firm or to the heirs or estate of a deceased partner, employee or proprietor. Moreover, Rule 3.04 does not at present prohibit a partnership by a member or associate of the Institute in public practice with a person who is not a certified public accountant.

OPINION NO. 7: Data Processing Services

Since data processing services are considered to be services of a type performed by public accountants, members performing such services for the public must observe the bylaws and Code of Professional Ethics

Inquiries have been received as to the applicability of the Code of Professional Ethics to data processing services.

Some members propose to offer a full range of data processing services only to practicing public accountants; others, to offer such services directly to the public; and some propose to serve both the public and the profession. Some members would offer data processing services through their existing public accounting practice; others would offer these services through a separate partnership; and still others suggest that the corporate form is preferable for such activities.

Whether data processing services are offered to other practitioners or to the public, the same basic services are usually offered. These include the accumulation of data to be used for accounting purposes and statistical studies, maintenance of accounts, and bookkeeping services. The committee has long held that services of this type are similar to the "write-up" work in bookkeeping services rendered by many public accountants, and therefore, when offered to the public, are "services of a type performed by public accountants" (Rule 4.05).

This means that in performing such services for the public, members must abide by the Institute's bylaws and Code of Professional Ethics even though services of this type are also offered by nonprofessional commercial operations not bound by ethical rules.

1. Practitioners may not perform data processing services in corporate form for the public.

A member may, individually or in partnership with other persons engaged in the practice of public accounting as a principal occupation,

perform the full range of data processing services for the public as well as for other practitioners. When such services are performed for the public, they are considered to be those of a type performed by public accountants, and consequently the bylaws and Code of Professional Ethics, including Rule 4.06, which prohibits practice in corporate form, must be observed (Rule 4.05). However, a member may have a financial interest in a corporation offering data processing services to the public provided such interest is not material to the corporation's net worth, and his interest in and relation to the corporation is solely that of an investor. In addition, a corporate vehicle may be used for owning or leasing of the equipment.

2. Data processing services solely to practitioners may be offered in corporate form.

A member who offers data processing services solely to practicing public accountants is not considered to be offering accounting services to the public and, accordingly, would not be prohibited by Rule 4.06 from becoming an officer, director, stockholder or agent of a corporation engaged exclusively in that activity. Since advertising comes to the attention of the public, it would be permissible to circularize other practitioners, only in letter form, announcing that the necessary equipment and expertise are available for their clients' benefit, but are not available directly to the public.

3. Block time

The offering of "block time" on data processing equipment does not in itself constitute the practice of public accounting so long as it does not entail systems design, programming or service of any kind and what is being offered is the use of the equipment only. Accordingly, the availability of "block time" may be advertised provided the names of the CPAs and the fact that CPAs are involved are not disclosed. The offering of "block time" must not be used as a feeder to the member's practice.

References to Rule 4.06 in this Opinion relate to the prohibition against corporate practice which was repealed by the membership on December 30, 1969. The division of professional ethics has under consideration a revision of this Opinion consistent with Rule 4.06 as it appears in this book.

OPINION NO. 8: Denial of Opinion Does Not Discharge Responsibility in All Cases

When a member believes financial statements are false or misleading, denial of opinion is insufficient

Rule 2.02 deals with a member's responsibilities in expressing an opinion on representations in financial statements. The rule does not,

however, specifically refer to situations where an opinion is denied, either by disclaimer or by reference to the statements as "prepared without audit." When an accountant denies an opinion on financial statements under Rule 2.03, which incorporates the provisions of Auditing Statement 23,* he is in effect stating that he has insufficient grounds for an opinion as to whether or not the statements constitute a fair presentation. Rule 2.03 provides that where an opinion is denied, the accountant must indicate clearly his reasons therefor.

In a circumstance where a member believes the financial statements are false or misleading as a whole or in any significant respect, it is the opinion of the committee that he should require adjustments of the accounts or adequate disclosure of the facts, as the case may be, and failing this the independent accountant should refuse to permit his name to be associated with the statements in any way.

OPINION NO. 9: Responsibility for Firm Publications and Newspaper and Magazine Articles

Members responsible for distribution of firm literature and for information supplied to the public press

1. Newsletter and firm literature on special subjects

This refers to house organs and publications on accounting, tax accounting, articles of business interest or related subjects distributed under the auspices of, or through the facilities of, an individual or a firm for the information of clients and/or staff. The committee believes that these publications serve a useful purpose in keeping clients informed and in maintaining client relations. It does not believe that this medium should be curtailed, but the distribution of such material must be properly controlled. Distribution should be restricted to clients and individuals with whom professional contacts are maintained, such as lawyers of clients, and bankers. Copies may also be supplied to nonclients who specifically request them and to universities if the material is of educational value and does not advertise the professional attainments or services of the firm as prohibited by Rule 3.01.

If requests for multiple copies are received, the firm should ascertain the intended distribution and the number of copies supplied should be limited accordingly. In granting requests for multiple copies, the individual or firm preparing the publications must assume the responsibility for any distribution by the party to whom they are issued which would violate Rule 3.02, on solicitation, or Rule 5.01, on encroachment on the practice of another public accountant.

---

* Now incorporated in Statement on Auditing Procedure No. 33.

2. Internal publications

This includes bulletins, pamphlets, etc., containing announcements of changes in staff, activities of partners and staff members, staff training articles and other matters intended for internal consumption. Because of the nature of these publications the committee does not consider outside distribution to be a major problem. However, if distribution goes beyond internal consumption, it is subject to the restrictions stated in Section 1.

3. Staff recruitment brochures

The committee is of the opinion that the distribution of staff recruitment brochures should be limited to college faculty and placement officials, students considering interviews and other job applicants. The material should be prepared in a dignified manner, and its purpose should be to assist the college graduate in evaluating the opportunities offered by the prospective employer and in answering questions pertaining to the scope of operations, staff training, possibilities for advancement, working conditions, location of offices, etc.

4. Newspaper and magazine articles regarding firms or members of the profession

Statements made by CPAs on subjects of public interest which are reported in the press and thereby contribute to public awareness of the profession are not considered advertising and are encouraged.

Publicity deliberately cultivated either directly or indirectly by a member which advertises his or his firm's professional attainments or services, such as, but not limited to, the issuance of press releases regarding firm mergers, the opening of new offices, or admission of new partners, is prohibited by Rule 3.01.

OPINION NO. 10: Responsibility of Members for Pro Forma Statements and Forecasts Under Rule 2.04

In preparing for management any special purpose financial statement anticipating results of future operations, a member must disclose the source of the information used and the major assumptions made, and he must indicate that he does not vouch for the accuracy of the forecast

Rule 2.04 provides that "A member or associate shall not permit his name to be used in conjunction with any forecast of the results of future transactions in a manner which may lead to the belief that the member or associate vouches for the accuracy of the forecast."

The ethics committee is well aware that pro forma statements of financial position and results of operation, cost analyses, budgets and other similar special purpose financial data, which set forth anticipated results

of future operations, are important tools of management and furnish valuable guides for determining the future conduct of business.

The committee is of the opinion that Rule 2.04 does not prohibit a member from preparing, or from assisting a client in the preparation of, such statements and analyses. However, when a member associates his name with such statements and analyses, or permits his name to be associated therewith, there shall be the presumption that such data may be used by parties other than the client. In such cases, full disclosure must be made of the source of the information used, or the major assumptions made, in the preparation of the statements and analyses, the character of the work performed by the member, and the degree of responsibility he is taking. Such disclosure should be made on each statement, or in the member's letter or report attached to the statements. The letter or report of the member must also clearly indicate that the member does not vouch for the accuracy of the forecast. It is the opinion of the committee that full and adequate disclosure would put any reader of such statements on notice and restrict the statements to their intended use.

OPINION NO. 11: Advertising and Indication of Specialty Prohibited

Advertising prohibitions relating to announcements, directories, business stationery, business cards, and office premises

In the opinion of the committee on professional ethics, Rule 3.01 prohibits a member or associate from advertising his professional attainments or services through any medium. The rule clearly prohibits the publication of an announcement, also referred to as a "card," or advertising in the usual form in newspapers, magazines or other public media. It prohibits imprinting members' names, or the firm names of members, on tax booklets or other publications prepared by others. It further prohibits the association with a member's name of such phrases as "tax consultant," "tax expert," "management services," "bank auditor" and any other designations which indicate the special skills that a member possesses or particular services which he is prepared to render. It does not prohibit the use of the firm affiliation and the CPA designation in connection with authorship of technical articles and books, and it does not prohibit publicity which is of benefit to the profession as a whole.

The committee recognizes, however, that there are media, which may or may not be available to the public generally, in which it is both professional and desirable for a member's name to appear under certain circumstances. Such media include card announcements, directories, business stationery, business cards, and office premises. The committee's views on the uses of such media are as follows:

1. Announcements

   a. Announcements of change of address or opening of a new office and of changes in partners and supervisory personnel may be mailed to clients and individuals with whom professional contacts are maintained, such as lawyers of clients and bankers.

   b. Such announcements should be dignified, and fields of specialization are not permitted to be included in the announcements.

2. Directories

   a. General

      (1) A listing in a classified directory is restricted to the name, title (certified public accountant), address and telephone number of the person or firm, and it shall not appear in a box, or other form of display, or in a type or style which differentiates it from other listings in the same directory.

      (2) Listing of the same name in more than one place in a classified directory is prohibited, and, where the classified directory has such headings as "Certified Public Accountants," or "Public Accountants," the listing shall appear only under one of those headings. Each partner's name, as well as the firm name, may be listed.

   b. Yellow (or business) section of classified telephone directories

      Listings are permitted only in the classified directories which cover the area in which a bona fide office is maintained. Determination of what constitutes an "area" shall be made by the state societies in the light of local conditions.

   c. Trade associations and other membership directories

      (1) Listings of members in such directories are restricted to the information permitted in 2(a)(1) and 2(a)(2) above, and, if classified, are further restricted to a listing under the classification of "Certified Public Accountants" or "Public Accountants."

      (2) Where the directory includes geographical as well as alphabetical listings, a member may be listed in such geographical section in addition to the listing permitted above.

3. Business stationery

   a. Information appearing on a member's stationery should be in keeping with the dignity of the profession. It shall not include a listing of areas of specialization of the member or his firm, and separate stationery for tax or management services, or other specialized departments of the firm, is prohibited.

b. The stationery may include

(1) The firm name, names of partners, names of deceased partners and their years of service, and names of staff men when preceded by a line to separate them from the partners.

(2) The letters "CPA" following the name, the use of the words "Certified Public Accountant(s)," the address (or addresses) of office(s), telephone number(s), cities in which other offices and correspondents are located, and membership in professional societies in which all partners are members.

(3) The public accountant designation of "Accountants and Auditors" in place of "CPA" or "Certified Public Accountant(s)" where state law or partnership affiliation does not permit such use.

c. In the case of multi-office firms, it is suggested that the words "offices in other principal cities" (or other appropriate wording) be used instead of a full list of offices. Also, it would be preferable to list only the names of partners resident in the office for which the stationery is used.

4. Business cards

a. Business cards may be used by partners, sole practitioners and staff members. They shall be limited to the name of the person presenting the card, his firm name, address and telephone number(s), the words "certified public accountant(s)" or "CPA" and such words as "partner" or "manager," but without any specialty designation.

b. Members not in public practice may use the letters "CPA" after their names when acting as treasurer, controller, or in other internal accounting capacities for an organization, but shall not do so when engaged in sales promotion, selling or similar activities.

5. Office premises

a. Listing of the firm name in lobby directories of office buildings, and printing it on entrance doors within the building, or on the entrance to a member's office if located other than in an office building, are solely for the purpose of enabling interested parties to locate such office. The listing should conform to the size and style of other listings in the same building and should be in good taste and modest in size.

b. The use of the words "income tax," or other specialized wording, in connection with the office of the member, including special illumination of such lettering, and signs on windows (except where such window is adjacent to the entrance), walls, building fronts or transportation equipment used by the member(s) shall constitute advertising and shall be deemed to be a violation of the rule.

6. "Help wanted" advertisements

   a. An advertisement for "help wanted" in any publication shall not be in the form of display advertising when the name of a member or associate, or a firm of which he is a partner, appears anywhere in the advertisement. In display advertising the use of telephone number, address or newspaper box is permissible.

   b. In "help wanted" classified advertisements, other than display, the name of the firm, member, or associate should not appear in boldface type, capital letters, or in any other manner which tends to distinguish the name from the body of the advertisement.

   c. If a firm advertises for specialists, the advertisement must not convey the impression that specialized services are being offered to the public.

7. "Situations wanted" advertisements

A member or associate shall not advertise for employment in such a manner as to indicate that he is soliciting engagements as a public accountant:

   a. If the purpose of the advertisement is full-time employment as an accountant for a public accounting firm or in private industry, or per diem services to public accounting firms, statements of qualifications are permitted. Such phrases as "tax expert," "financial specialist," or any statement of self-glorification will not be permitted.

   b. An advertisement in a publication of general circulation for part-time services for which a fee is charged or per diem services (except to public accounting firms) is considered a violation of Rule 3.01.

   c. An advertisement should not appear under such headings as "Business Services" or "Professional Services." It should not be of the display type and response should be directed to a box, address or telephone number.

OPINION NO. 12: Independence

Auditor's responsibility to avoid relationships which to a reasonable observer might suggest a conflict of interest; propriety of member's rendering tax and management advisory services to clients on whose financial statements he expresses an independent opinion

Rule 1.01 of the Code of Professional Ethics states in part that "a member or associate, before expressing his opinion on financial statements, has the responsibility of assessing his relationships with an enterprise to determine whether, in the circumstances, he might expect his

opinion to be considered independent, objective and unbiased by one who had knowledge of all the facts."

Questions have arisen as to what relationships with an enterprise might be regarded by a reasonable observer, who had knowledge of all the facts, as those involving conflicts of interest which might impair the objectivity of a member in expressing an opinion on the financial statements of the enterprise. The committee does not believe that normal professional or social relationships would suggest such a conflict of interest in the mind of a reasonable observer.

In 1947 the Council of the American Institute said in an official statement on independence:

> Independence is an attitude of mind, much deeper than the surface display of visible standards.

It also said:

> In the field of auditing, the certified public accountant is under a responsibility peculiar to his profession, and that is to maintain strict independence of attitude and judgment in planning and conducting his examinations, and in expressing his opinion on financial statements. . . . It has become of great value to those who rely on financial statements of business enterprises that they be reviewed by persons skilled in accounting whose judgment is uncolored by any interest in the enterprise, and upon whom the obligation has been imposed to disclose all material facts. . . .

While endorsing the Council's statement that independence is an attitude of mind, the committee recognizes that it is of the utmost importance to the profession that the public generally shall maintain confidence in the objectivity of certified public accountants in expressing opinions on financial statements. In maintaining this public confidence, it is imperative to avoid relationships which may have the appearance of a conflict of interest.

It is this reasoning which led the Institute to include in Rule 1.01 of the Code of Professional Ethics the statements that members should not have any financial interest in, or serve as officers or directors of, clients on whose financial statements they express opinions.

The committee does not intend to suggest, however, that the rendering of professional services other than the independent audit itself would suggest to a reasonable observer a conflict of interest. For example, in the areas of management advisory services and tax practice, so long as the CPA's services consist of advice and technical assistance, the committee can discern no likelihood of a conflict of interest arising from such services. It is a rare instance for management to surrender its responsibility to make management decisions. However, should a member make

such decisions on matters affecting the company's financial position or results of operations, it would appear that this objectivity as independent auditor of the company's financial statements might well be impaired. Consequently, such situations should be avoided.

In summary, it is the opinion of the committee that there is no ethical reason why a member or associate may not properly perform professional services for clients in the areas of tax practice or management advisory services, and at the same time serve the same client as independent auditor, so long as he does not make management decisions or take positions which might impair that objectivity.

OPINION NO. 13: Tax Practice

Application of Code of Professional Ethics to tax practice

It is the opinion of the committee that the Code of Professional Ethics applies to the tax practice of members and associates except for Article 2, relating to technical standards, and any other sections of the Code which relate only to examinations of financial statements requiring opinions or disclaimers.

The committee is of the opinion that the statement, affidavit or signature of preparers required on tax returns neither constitutes an opinion on financial statements nor requires a disclaimer within the meaning of Article 2 of the Code.

In tax practice, a member or associate must observe the same standards of truthfulness and integrity as he is required to observe in any other professional work. This does not mean, however, that a member or associate may not resolve doubt in favor of his client as long as there is reasonable support for his position.

OPINION NO. 14: Management Advisory Services

Application of Code of Professional Ethics to management advisory services

Inquiries have been received as to the applicability of the Code of Professional Ethics to management advisory services. It is the opinion of the committee that all the provisions of the Code of Professional Ethics apply to management advisory services, except those rules solely applicable to the expression of an opinion on financial statements.

OPINION NO. 15: Disclaimer of Auditor Lacking Independence

Opinion No. 15, "Disclaimer of Auditor Lacking Independence," was rescinded in January 1970 by the division of professional ethics upon issuance by the committee on auditing procedure of Statement on Auditing Pro-

cedure No. 42 "Reporting When a Certified Public Accountant Is Not Independent."

In withdrawing this Opinion, the division calls attention to the note accompanying each Statement on Auditing Procedure to the effect that the burden of justifying departures from the auditing procedure committee's recommendations must be assumed by those who adopt other practices.

OPINION NO. 16: Retired Partners and Firm Independence

A firm's independence is considered impaired if a retired partner, still active in the affairs of the firm, is a director or stockholder of an audit client

The committee on professional ethics has considered the question of an accounting firm's independence when a retired partner of the firm acquires any direct financial interest or a material indirect financial interest in an enterprise on whose financial statements the firm is expressing an opinion or when he becomes connected with such enterprise as a promoter, underwriter, voting trustee, director, officer or key employee.

Under Rule 1.01 it is the auditor's responsibility to assess all of his relationships with an enterprise to determine whether, in the circumstances, he might expect his opinion to be considered independent, objective and unbiased by one who had knowledge of all the facts. The committee believes that certain relationships of a retired partner with the firm of which he was formerly a partner and with a client of that firm might suggest to a reasonable observer that the firm was lacking in independence.

For example, if a retired partner remains active in the affairs of the firm, even though not officially, the independence of the firm would be impaired if he were an officer, director, stockholder or key employee of a client on whose financial statements the firm expresses an opinion.

However, the committee believes that if a retired partner is no longer active in the firm (regardless of the fact that he receives retirement benefits), the independence of the firm would not be impaired by his being an officer, director, stockholder or key employee of a client on whose financial statements the firm expresses an opinion, provided that the fees received from such client do not have a material effect on his retirement benefits. A retired partner who has such a relationship with a client should not be held out as being associated with his former partnership.

OPINION NO. 17: Specialization

A member may form a separate partnership with non-CPA specialists in management services, provided such partnership observes the profession's Code

Inquiries have been received as to ethical problems arising when CPA firms enter the fields of data processing, operations research and other

management services. This broadening of services is consistent with the objective adopted by the Institute's Council in April 1961, ". . . to encourage all CPAs to perform the entire range of management services consistent with their professional competence, ethical standards and responsibility."

In expanding services into more specialized fields, CPA firms frequently find it necessary to employ or associate with technical experts who may not be certified public accountants. This creates the problem of providing these specialists with adequate recognition and responsibility within the framework of the profession's ethical standards.

Two methods of solving this problem have evolved: (1) elevating non-CPA specialists to the rank of "principals," and allowing them to participate in the profits of the firm; (2) establishing a separate partnership which does not hold itself out as practicing public accounting and therefore may have non-CPA partners.

The committee has studied each of these methods to determine whether there is any infringement of the Code of Professional Ethics, and to establish the ethical standards under which these methods may be employed.

An investigation of the designation "principals" for non-CPA specialists and of the relationship of these individuals to the firm revealed the following: (1) "Principals" are high ranking employees who receive a base salary and who share in the profits of the firm. (2) "Principals" do not make capital contributions to the firm, do not share in the losses of the firm and have no vote in, or responsibility for, partnership decisions.

The indicated characteristics do not appear to create a partnership relationship. In fact, the attorney general of at least one state has held that such noncertified individuals, designated by a firm as "principals," are not members of the partnership and that their association with the firm as "principals" was not a violation of the accountancy statute of that state.

Since these "principals" are neither CPAs nor partners, the question arises whether the relationship is in violation of Rule 3.04 (fee sharing) or Rule 4.03 (employee's performing services which the member himself is not permitted to perform).

Rule 3.04 prohibits fee sharing with "any individual or firm not regularly engaged or employed in the practice of public accounting as a principal occupation." These "principals" are, in the committee's opinion, employed in the practice of public accounting. Consequently, Rule 3.04 does not apply. As for Rule 4.03, the services performed by these specialists (e.g., data processing, operations research, etc.) are not services regulated by law. Therefore, in the opinion of the committee, it cannot be said that employees are performing services which the member himself is not permitted to perform under the law.

The committee considered whether or not, in the absence of statutory

restrictions, it would be a violation of the Institute's Code of Professional Ethics to make these non-CPA specialists partners of the firm.

The ethics committee, in Opinion No. 6, has held that Rule 3.04 does not at present prohibit a member from practicing public accounting in partnership with a person who is not a certified public accountant. Therefore, in the opinion of the committee, nothing in the Institute's present Code would prohibit members from admitting these non-CPA specialists into the partnership, although in many cases state laws would preclude the partnership from practicing under professional accounting titles and from expressing opinions on financial statements.

The second method of obtaining the necessary specialists for CPA firms to expand into the management services field is the formation of a separate partnership which does not hold itself out as practicing public accounting and which is therefore not regulated under the state's accountancy statute.

As pointed out previously, the ethics committee has ruled that the Code does not presently prohibit a member from practicing public accounting in partnership with a person who is not a certified public accountant. Therefore, the committee finds in the present Code no prohibition against the formation of a separate partnership wtih non-CPA specialists.

However, Rule 4.05 of the Code of Professional Ethics provides that a member engaged in an occupation in which he renders services of a type performed by public accountants must observe the bylaws and Code of Professional Ethics in the conduct of that occupation. In addition, the ethics committee has ruled that data processing, operations research and other management services are "services of a type performed by public accountants."

Therefore, the committee is of the opinion that nothing in the Institute's Code of Professional Ethics presently prohibits a member from forming, or becoming a member of, a separate partnership with non-CPA specialists for the rendering of various management services as long as such partnership observes the bylaws and Code of Professional Ethics. Such a separate partnership would not be permitted to advertise, solicit clients, accept commissions or do anything else prohibited by the Code. Nor would it be permitted to hold itself out on letterheads, cards, signs, etc., in directory listings or through its partnership names as specializing in a particular service.

It should be emphasized that the committee's opinion is based upon the Code of Professional Ethics as it is now constituted. The provisions of the Code relating to this area are now under study for the purpose of determining the necessity of any revisions. If the provisions in question are revised, it may be necessary to modify or withdraw this opinion.

The conclusions reached by the committee are in accord with Opinion No. 7.

OPINION NO. 18: Fees and Professional Standards

Offering to perform services for an inadequate fee may be evidence of solicitation

In determining the amount of his fee, a CPA may assess the degree of responsibility being assumed in the engagement, the time and manpower required to perform the service in conformity with the standards of the profession, the skills needed to discharge his professional obligation to the client and the public, the value to the client of the services rendered and the customary charges of professional colleagues. Other considerations may also be involved. No single factor can be controlling.

It is characteristic of all professional persons to be more concerned with fulfilling their responsibilities to the public than with immediate financial reward. On occasions they may appropriately choose to serve a client for a fee less than cost, or indeed without any compensation whatever.

However, to quote a fee in advance of an engagement in an amount clearly inadequate to provide fair compensation for performing service in accordance with accepted professional standards may be regarded, in some circumstances, as evidence of solicitation in violation of Rule 3.02 of the Code of Professional Ethics. Without attempting to specify all circumstances that might be relevant in determining the propriety of a particular quotation, it would be appropriate to consider whether there were any facts suggesting that such inadequate fee had been fixed as a part of a plan or design to solicit business.

In such cases of inadequate fees there may be a temptation to minimize losses by reducing the amount of work below that required by Rule 2.02 of the Code, with serious consequences for third parties who rely upon opinions on financial statements.

OPINION NO. 19: Independence of Members Expressing Opinions on Financial Statements of Banks

Some deposit or loan relationships may affect auditor's independence

Rule 1.01 states in part "A member . . . before expressing his opinion on financial statements, has the responsibility of assessing his relationships with an enterprise to determine whether, in the circumstances, he might expect his opinion to be considered independent, objective and unbiased by one who had knowledge of all the facts."

With the increasing number of engagements involving the expression of opinions by certified public accountants on the financial statements of banks, questions have been raised as to whether a deposit or a loan relationship between a bank and its auditors may affect the auditor's independence.

With respect to deposits, the auditor's independence may be impaired if deposits of a member or his firm are in jeopardy during the period from the commencement of field work to the date of the auditor's report.

A member or his firm having loans from a bank would be considered to be lacking in independence if such loans in the aggregate are material in relation to the net worth of the firm and its partners, or if a partner has a loan from a bank, not guaranteed by the firm, which is material to his net worth. The foregoing statement would not apply to home mortgages or other secured loans arising out of the bank's normal lending procedures. Materiality applies to the period mentioned in the preceding paragraph.

Where the bank maintains a trust department, the auditor should also assess his relationship with that department in the light of the foregoing criteria. For example, if the trust department holds a trust fund of which the auditor is a beneficiary or holds assets of the auditor's retirement plan and such assets are in jeopardy during the period of his examination, the auditor's independence may be impaired.

OPINION NO. 20: Recurring and Nonrecurring Client Relationships

Application of solicitation and encroachment rules when a client is served by more than one CPA

This opinion discusses the applicability of Rules 3.02 (solicitation) and 5.01 (encroachment) to situations in which a client is using the services of more than one CPA firm. The opinion applies only to situations covered by these two rules and is not intended to define "client" for other purposes.

On occasion, clients engage more than one CPA firm at the same time to provide different services. In some cases, one firm may be engaged to perform management services while another performs the audit and annual tax services. In other cases, an enterprise may engage one firm to perform audits and another to perform tax services. In still other cases, an enterprise which customarily engages one CPA firm for tax services may engage another CPA firm to assist in the settlement of a tax dispute. Other relationships in different combinations exist. For the purpose of clarifying the application of Rules 3.02 and 5.01 to various circumstances, relationships between a client and a CPA firm are classified as either "recurring" or "nonrecurring."

A "recurring" relationship exists when a CPA has performed, is performing, or has been engaged to perform services for a client, and the nature of the services is such that the CPA may reasonably expect to perform such services in the future. In such a case, the accountant-client relationship continues until affirmatively terminated. In merger situations this recurring relationship continues until affirmatively terminated even

though the corporate identity or the organizational structure of the client may be substantially altered in the merger.

A "nonrecurring" relationship exists when a CPA performs an engagement for a specific purpose and the engagement, by its nature, is not expected to recur. The CPA-client relationship terminates when work on the engagement is completed.

If more than one CPA has a recurring relationship with a client, any of such CPAs may suggest the performance of services not being rendered by another CPA without violating Rules 3.02 or 5.01. However, endeavors by a member to replace another CPA who has either a recurring or nonrecurring relationship would be considered a violation of Rule 5.01. Such endeavors might include, but would not be limited to, sending firm literature or extending invitations to seminars, the subject matter of which relates to services being performed for the client by the other CPA. The foregoing does not apply to a member who assumes the primary responsibility for the opinion on the fairness of the combined or consolidated statements where different CPAs perform attest services for subsidiaries, branches or other components.

A CPA performing a nonrecurring engagement for a client who has a recurring relationship with another CPA can ethically seek to extend services to areas closely related to the engagement and clearly unrelated to the work done by the other CPA, but only during the period of his limited engagement. It is suggested as a matter of professional courtesy that the CPA who is performing a nonrecurring engagement and who perceives the need for additional services should bring those needs to the attention of the CPA with the recurring relationship. So long as another CPA has a recurring relationship, any attempt by a member to extend services to areas not closely related to the special engagement would result in a violation of Rule 5.01. For example, invitations to educational seminars and the distribution of firm literature to nonrecurring clients would have to be limited to subject matter closely related to the specific engagement, and could be made only during the period of the engagement.

When a CPA is asked to perform services for a client who presently has a recurring relationship with another CPA, it is suggested that the new CPA contact the incumbent CPA in order to avoid misunderstanding.

A CPA performing a nonrecurring engagement for a client who has no relationship with another CPA may ethically seek to extend services to all other areas during the period of his limited engagement.

In the absence of a recurring relationship, offers to provide services after completion of a limited engagement would constitute a violation of Rule 3.02, unless the offer was in response to an inquiry from the client. However, in the event of a new development which is closely related to a completed special engagement, a CPA may bring the development to the attention of his former client.

OPINION NO. 21: Participation in Educational Seminars

Participation in education seminars sponsored by a CPA firm or other organization

This opinion discusses the applicability of Rules 3.01 (advertising) and 3.02 (solicitation) when a member or his firm participates in educational seminars either in person or through audiovisual techniques.

The division believes that participation in a program of educational seminars about matters within the field of competence of CPAs is in the public interest and is to be encouraged so long as such seminars are not used as a method of direct or indirect solicitation of clients. Therefore, certain restraints must be imposed to avoid violating the spirit of Rules 3.01 and 3.02. For example, a member or his firm should not:

1. Send announcements of a seminar to nonclients or invite them to attend. However, substantially full-time teachers of business administration courses may be invited to attend to further their education.
2. Sponsor, or convey the impression that he is sponsoring, a seminar which will be attended by nonclients. However, a member or his firm may conduct educational seminars solely for clients and those serving clients in a professional capacity who have been invited by the clients to attend.

In addition, when a seminar is sponsored by others and attended by nonclients, a member or his firm should not:

1. Solicit the opportunity to appear on the program.
2. Permit the distribution of publicity concerning the seminar to include more information than may appear in accordance with Opinion No. 4 about an author of a book or article, i.e., the name of the member, the degrees he holds, professional society affiliation and the firm with which he is associated.
3. Distribute firm literature which is not directly relevant to a subject being presented on the program by the member or his firm.

Index

Index

Academic degrees on letterhead, 77
Accountant(s)
  fees, as "wages," 31
  mailings to, 58, 61, 63-64, 66, 102
  nonregistered, partnership with, 124, 126
  statement on inventory value, 82-83
Accountants not partners, association of, 120
Accounting and bookkeeping assistance, data processing, 129
Accounting firms
  affiliate, minority interest in, 29
  consultant to, as director of client, 12
  other, employment of staff of, 140, 141-142
    on behalf of client, 143
  see also Corporate form, practice in
Accounting forms and systems, 105
Accounts, confirmation notice for collecting, 54-55
Acquisition
  letter on behalf of client in, 100-101
  and mergers, specialization, 90, 146
Acts of others, responsibility for, 126, *156-157*
Actuary, 111
  auditor as, 1
Adverse opinion, *151*
Advertising, 57-93, 146, *152, 156, 157, 161-162, 163-166, 175*
  accounting and bookkeeping assistance, 129
  auditor as fund raiser, 4
  coaching course for CPA candidates, 112
  computer center, 107, 131
  contingent fees to fire adjuster, 108
  CPA title, 61-66, 113
  directory listings, 66-71
  display, in "help wanted" ad for client, 72
  distribution of client information to trade associations, 44
  employment ads, 72-73
  employment agency, 113
  finance company, 114
  firm designation, 123
  firm name imprinted, 73-76
  insurance broker, 114
  investment advisor, 115
  letterheads, 76-78
  loan broker, 115
  names associated with, 82
  outside commercial ventures, 116
  paid for by others, 80-83
  partnership with non-CPA, 134
  press releases, 84-86
  signs on office premises, 88-89
  specialization, 90-91
  staff recruiting, 91-92
  state secretary of revenue, 117
  stockbroker, 117-118
  on tax broadcast, 57
  tax work obtained through bookkeeper, 147
  see also Solicitation
Advisory committee of bank client, 1-2
Affiliate accounting firm, minority interest in, 29
Affiliated company, financial investment in, 25
Affiliations not partnerships, 120
Agency
  employment, 113
  letterhead, CPA title on, 64-65

NOTE: Page numbers in italics refer to Appendixes A and B, pages 149-175.

records retention, 45-46
Agent, collection, 112
AICPA
members, title, 127
membership directory, retired partner, 127
Alumni
of firm, invitation to golf outing, 99
magazine announcement, 57
Analysis, trade association, 104
Announcements, *164*
in alumni magazine, 57
change in staff, 85
change in telephone number, 68
seminar, 87
Article(s)
and books, authorship of, *157*
CPA-authored, 61
on CPA firm in client bulletin, 80
in house organs, 76
member's testimonial, 80, 81
Assignments, insurance loss, 137
"Associate director" of client, 2
Associates not partners, 120
Association(s), 89, 94-95
of accountants not partners, 120
directory listing, 70-71
executives, 92-93
of firms, 121
membership (independence), 2
of name, 53
with unaudited statements, 53-54
see also Trade association
Attorney, auditor engaged by, 139
Audit(s)
of bank customers, 135
bank notice of, 95
of clients which are local affiliates, 135-136
continuing annual, confirmation stickers in, 97-98
with former partner, 121
scope of, management letter on, 78
Audit client
co-trustee of, 38
retired partner as "director emeritus" of, 15
Audit independence, *see* Independence; Auditors
Auditing and reporting, 53-56
technical standards, 43-44
Auditing work, *151*
Auditor(s)
as actuary, 1
bank, directory listing, 67-68
as college trustee, 6
as commissioner of highways, 2-3
as controller, 3
controller as, 12-13
as co-signer of payroll checks, 3
as director of bank's parent, 4
as employee, 31
endorsement of school board candidates, 7
engaged by attorney, 139
engaged by company president, 139
as fund raiser, 4
lacking independence, disclaimer of, *168-169*
as legislator, 4
loan to, guaranteed by client, 28-29
as management consultant, 5
of municipality, city councilman as, 12
of profit-sharing and retirement trust, director as, 15
as recordkeeper, 5
rotation of, 96
of stockbroker, 7
supervisor as, 37
as trustee, 5-6
of college, 6
of fund-raising foundation, 6-7
Auditor's corporation, loan to, 29
Audit procedures, negative confirmation requests and, 97
Audit reports, signatures in mixed partnerships, 124
Author, *see* CPA-author
Authorship of books and articles, *157*
Available services, inquiry about, 99-100

B

Background data for client use in applying for financing, 87
Bank
ad, CPA title in, 62
auditors, directory listing, 67-68
controller, CPA title, 61-62
customers, audits of, 135
director

independence of, 111
and stockholder as auditor for depositors, 7-8
financial statements, independence in, *172-173*
notice of audit, 95
referrals by, 146
stockholder in, 32-33
Bank client
advisory committee of, 1-2
stockholder in, 33
Bank's parent, auditor as director of, 4
Beneficiary, contingent income of a trust, 37
Billing service, data processing, 129
Billings, shared, 110
Block time, data processing, 130, *160*
Board members, fellow, mailings to, 102
Board of directors
of client affiliate, 8-9
of Community Chest, 9
of country club, 9-10
of credit union, 10
employee as member of, 16-17
of holding company, 10
of subsidiary, 10-11
of YMCA, 11
Bond issue, 54, 136
contingent fees on, 49
forecasts in, 54
Bond prospectus, preparation of, 30, 112
Bonds, financial interest in, 21-22
Bonus or profit-sharing plan, 105-106
Bookkeeper, tax work obtained through, 147
Bookkeeping practice, purchase of, 109
Bookkeeping service(s)
in data processing services, *159-160*
as "feeder," 140
offer of by trade association, 94
Booklet, firm name on
Medicare, 78
tax, 75
Book review, CPA-author of, 61
Books and articles, authorship of, *157*
Bowling shirts, firm name on, 74
Boy Scouts, 9
Brochure(s)
sales, nonpractitioner in, 79
showing use of equipment, 57-58
staff recruitment, *162*
see also Advertising
Broker
insurance, 114
loan, 115
real estate, 117
stock, 117-118
Brokerage firm, 117
Brother, family relationship, 17-18
Brother-in-law, family relationship, 18
Bulletin
church, 96
firm, distribution to publisher, 71-72
see also Advertising
Business and real estate, private investor in, 116
Business card(s), 90, *165*
on newsletter, 58
Business checks, CPA title imprinted on, 62
Businesses, nonregulated, 30
Business stationery, *164-165*
see also Letterhead
"Buyers' Guide," listing in membership directory entitled, 67

C

Calendars, desk, firm name on, 74
Campaign for school board membership, CPA title in, 63
Card, publication of, *152*
Career opportunity guide, staff recruiting in, 91-92
Chairman, city council, 11-12
Chairman, tax committee, 138
Chamber of commerce directory, 67
Change in staff, press release on, 85
Change in telephone number, announcements of, 68
Change of control of client company, 95
Charitable contribution, 58
Charitable organization, "director" of, *150*
Charity, donors to, 58
Charity solicitation by phone, 95
Checks

business, CPA title imprinted on, 62
personal, CPA title imprinted on, 63
signing client's, 3, 31-32
Church bulletin, 96
Circular
for correspondent services, 58
course promotion, 60
City council chairman, 11-12
City councilman as auditor of municipality, 12
Client
"associate director" of, 2
auditor engaged by company president, 139
bank, advisory committee of, 1-2
computer center service bureau as, 131
confidence of, *157*
consultant of accounting firm as director of, 12
employment ads, "help wanted" for, 72
estate administrator, 139
greeting cards to, 75-76
information
revealing to competitors, 46-47
revealing to successor accountant, 44-45
insurance sales to, 109
joint investment with manager of, 27-28
letter on behalf of, 100-101
loans from, 24
loans to, 24
loan to auditor guaranteed by, 28-29
manager, joint investment with, 27-28
memorandum, consulting engagement, 136
and public, relations with, *149-150*
retired partner as "director emeritus" of, 15
returns, computer processing of, 43
subterfuge, disclosure of, 43-44
tax work obtained through bookkeeper, 147
tribute in radio program dedication,
trustee of trust owning stock in, 83
41-42
unable to pay standard fees, 50
see also Prospective client
Client ad, name in, paid for by others, 81-82
Client affiliate, board of directors of, 8-9
Client bulletin, article on CPA firm in, paid for by others, 80
Client company, control change, 95
Client information
distribution to trade associations, 44
revealing to competitors, 46-47
Client relationship
prior, 45
recurring and nonrecurring, *173-174*
Client sales letter
name in, paid for by others, 82-83
statement on count of testimonial letters, 83
statement on inventory value, 82-83
statement on value of merchandise in market baskets, 83
Client's checks, signing, 3, 31-32
Client's parent, financial interest in, 23
Client survey, inquiry for, 100
Clients which are local affiliates, audits of, 135-136
Club membership directory, 67
Coaching course for CPA candidates, 112
Co-authored manual, firm name in, 74
Code of Professional Ethics, 21, *149-155*
see also Opinions, Division of Professional Ethics; Rules, Code of Professional Ethics
"Coffee," personnel recruitment and, 103
see also Open house
Collection agent, 112
Collection of notes issued in payment of fees, 143
College trustee, auditor as, 6
Commercial ventures, outside, 115, 116, 118
see also Incompatible occupations
Commissioner of highways, auditor as, 2-3
Commissions, 105-110, *152-153, 158*
computer corporation, 131-132

contingent fees to fire adjuster, 108
fee sharing and, 133
insurance sales to clients, 109
mutual fund salesman, 115-116
purchase of bookkeeping practice, 109
for recommending accounting forms and systems, 105
referrals, 109-110
by bank, 146
shared billings, 110
Common stock, stockholder of, 35-36
Common trust fund audit by stockholder in bank, 32-33
Community Chest, board of directors of, 9
Company
affiliated, financial interest in, 25
finance, 114
merged, director of, 16
president, auditor engaged by, 139
Compensation
deferred, committee on, 15
for expert testimony, 50-51
from nonpractitioner, 106
Competitive bidding, 96, *152*
Competitors, revealing client information to, 46-47
Computer, press release on, 85-86
Computer center, 107, 130-131
service bureau as client, 131
see also Data processing
Computer corporation, 131-132
Computer print-out, projection in, 59
Computer processing of clients' returns, 43
Computer service franchise, 107
Conduct of professional corporation, *154*
Confidence
of client, *157*
prospective client's, 45
Confidentiality, in tabulating votes, 82
Confidential relationship, 43-48, 140 *150*
accounting and bookkeeping assistance, 129
advisory committee of bank client, 1-2
audit of bank customers, 135
bank director, 111
bank director and stockholder to depositors, 7-8
board of directors of client affiliate, 8-9
in confirmation procedure performed by others, 55
in consultation by phone, 98
in estate planning services, 98
management consulting referral, 102-103
partner in two firms, 125
referrals by bank, 146
trade association survey, 104
Confirmation(s), and bank notice of audit, 95
Confirmation notice, for collecting accounts, 54-55
Confirmation procedure performed by others, confidential relationship, 55
Confirmation requests, 97
Confirmation stickers, 97-98
Conflict of interest, 8, 9
bank director, 111
board of directors of client affiliate, 8-9
consumer credit company director, 112-113
indirect financial interest, 22-23
partner in two firms, 125
prior client relationship, 45
tax practice, 146
Congratulatory message, 59
Consolidated statements in audit of clients which are local affiliates, 135-136
Consultant
to accounting firm as director of client, 12
to service bureau, 132
see also Management consultant
Consultation by phone, 98
Consulting assignments, bond issue, 136
Consulting engagement, 136
Consumer credit company director, 112-113
Contingent fees, 49-52, *150*
based on sales, 49
on bond issue, 49
client unable to pay standard fees, 50

compensation from nonpractitioner, 106
finder's fee, 25, 50
to fire adjuster, 108
legal witness, 50-51
merger, 51
mortgage commitment, 51
specialization, acquisitions and mergers, 146
tax liability, 52
Contingent income beneficiary, trust, 37
Continuing annual audit, use of negative confirmation stickers in, 97-98
Contract, employment, 141-142
Contracts not to compete, insurance loss assignments, 137
Contribution, charitable, 58
Control change of client company, 95
Controller
as auditor, 12-13
auditor as, 3
bank, CPA title, 61-62
preparation of financial statements, 13
re-entering public practice, 13-14
state, 117
Co-op apartment, financial interest in, 22
Copyright
CPA title in, 59-60
for wheel computer and tax withholding tables, 59-60
Corporate employee, member as internal auditor, 145
Corporate form, practice in
characteristics, *153-155*
conduct of, *154*
data processing services, *159-160*
directors and officers of, *154*
liability of, *154*
name of, *154*
ownership of, *154*
Corporation
computer, 131-132
fiduciary, to act as trustee, 20-21
trust, 118
Correspondent services, circular for, 58
Co-signer of payroll checks, auditor as, 3
Co-trustee of audit client, 38
Co-trustee with material financial interest, 38
Council of the Institute, statement on independence, *167*
Country club
board of directors of, 9-10
stockholder in, 33
County executive, 14
County governmental unit, 25-26
County study group, 25-26
County supervisor, 14-15
Course instructor, 60, 64, 108, 112
Course promotional circular, 60
CPA-author, *157*
of book review, 61
credits, 60-61
CPA-authored articles, 61
CPA candidates, coaching course for, 112
CPA coaching course, 112
CPA firm, article on, in client bulletin paid for by others, 80
"CPA—Local" in directory listing, 67
"CPA—National" in directory listing, 67
CPA-professor, 108
CPA title
on agency letterhead, 64-65
in bank ad, 62
bank controller, 61-62
in campaign for school board membership, 63
controller of bank, 61-62
in copyright or patent, 59-60
employment agency and, 113
on employment agency letterhead, 65
imprinted on business checks, 62
imprinted on personal checks, 63
internal auditor, 145
on jewelry, 65
in lecture ad, 63
for multiple jurisdictions, on letterhead, 62
non-CPA partnership, 124
nonpractitioner, in sales brochure, 79
in political endorsement, 63-64
on public official's match folders, 65
on research reports, 66

of speaker named in tax forum ad, 64
in speaker's qualifications, 64
Credits for CPA-author, 60-61, *157*
Credit union, board of directors of, 10

D

Data processing, 129-133
accounting and bookkeeping assistance, 129
billing service, 129
block time, 130, *160*
consultant, 132
program ad in technical publications, 66
Data processing services, *159-160*
in corporate form, *160*
employee, 132
fee sharing, 133
forwarding fees, 133
"of a type performed by public accountants," *159*
partnership with non-CPA for, 134
Deferred compensation committee, 15
Delinquent accounts, 143
Denial of opinion, *160-161*
Department of commerce, state, questionnaire about available services, 99-100
Depositors, bank director-stockholder as auditor for, 7-8
Designation, firm, 123
Desk calendars, firm name on, 74
Direct interest
transfer to a trust, 37-38
see also Financial interest
Director
associate, of client, 2
as auditor of profit-sharing and retirement trust, 15
bank, 7-8, 111
of bank's parent, auditor as, 4
of client, consultant to accounting firm as, 12
of consumer credit company, 112-113
of merged company, 16
retired partner as, 30
son as, family relationship, 19
"Director emeritus" of audit client, retired partner as, 15
Directors and officers, professional corporation, *154*
Directory, *164*
alphabetical, 66-67
chamber of commerce, 67
club membership, 67
in elevator, 66
trade association, 70-71, *164*
Directory listing, *152*
bank auditors, 67-68
change in telephone number announcements, 68
fraternity, 68
"Lawyer — CPA — Tax Attorney," 68-69
membership designation, 69
mixed partnerships, 126
multiple, 69
nonpartner associates' names, 70
partners' names, 70
retired partner, 127
tax attorney, 68
white pages, 70
Disclaimer of auditor lacking independence, *168-169*
Disclaimer of opinion, 53-56, *151*
Disclosure, *151*
of client subterfuge, 43-44
of material fact, *151*
Discreditable acts, 52, *150*
insurance loss assignments, 137
by non-CPA firm, 140-141
testimony as expert witness, 147
Displacement of local auditors, 135-136
Display advertising, in "help wanted" ad for client, 72
Dissolved partnership, 121-122
Distribution
firm bulletin to publisher, 71-72
firm literature, 72
member's speech, 61
political endorsement, 63-64
staff recruiting ad, 91-92
Division of Professional Ethics, opinions, *156-175*
Doing business abroad, article in house organ on, 76
Donors to charity, 58
Dual accounting practices, 125

Dual practice
lawyer-CPA, 68-69
on letterhead, 77

E

Economic power, use of firm's, 138
EDP, *see* Data processing
EDP manual, firm name on, 74
EDP publication, firm name on, 75
Educational seminars
CPA title in ad for, 63, 64, 87
indication of specialty at, 88
invitations to, 99
participation in, *175*
press release about attendance at, 84
Elected legislator, auditor as, 4
Election, political, 126
see also Political endorsement
Elevator, directory in, 66
Employee(s)
auditor as, 31
compensation to, *158*
designated as "principals," *170*
employer indebted to, 122-123
financial interest by, 21
as member of board of directors, 16-17
notification, 143
not in practice, 132
of other accountants, 140, 141, 143
profit-sharing with, 105
of service center, 132
as stockholder, 21
titles, 125
Employee-shareholder in public practice, 132
Employer
indebted to employees, 122-123
revealing names of clients of, 47
use of facilities, 119
Employment
contract, restrictive, 142
by non-CPA firm, 140-141
offers, 143, *155*
staff of other accounting firms, 140, 141
on behalf of client, 143
Employment ads
"help wanted" for client, 72
"help wanted" for firm, 140, *166*
"situations wanted," 72-73, *166*
Employment agency, 113
CPA title on letterhead, 65
Employment contract, 141-142
Employment guide, staff recruiting ad in, 91
Encroachment, 135-138, *155*
audits of bank customers, 135
audits of clients which are local affiliates, 135-136
bond issue, 136
change of control of client company, 95
in competitive bidding, 96
computer center, 107, 130-131
in consultation by phone, 98
consulting engagement, 136
contingent fees to fire adjuster, 108
in estate planning services, 98
estimate submitted with no prior relationship, 137
inquiry for client survey, 100
insurance loss assignment, 137
and invitations to firm seminar, 99
inviting alumni to golf outing, 99
letterhead for promotional material, 101-102
letter on behalf of client, 100-101
mailings to fellow board members, 102
and offer of service without charge, 96
successor partnership, 137-138
tax committee chairman, 138
trade association analysis, 104
trade association survey, 104
use of firm's economic power, 138
see also Solicitation
Endorsement
of commercial product, 80-81
political, *see* Political endorsement
Endowment committee, auditor as fund raiser, 4
Engagement, consulting, 136
"Enrolled to practice" on letterhead, 77-78
Equipment, brochure showing use of, 57-58
"Established in 1922" on letterhead, 76-77
Estate, executor of, 17

Estate payments, 108-109
Estate planning, 98, 113-114
Estate planning services, encroachment in, 98
Estate practice, letterhead for, 101
Estimate submitted with no prior relationship, 137
Ethical Standards of the Accounting Profession, 39
Executive, county, 14
Executive association, *see* Trade association
Executive search, 98, 143
  services, employment agency, 113
Executor of estate, 17
Expert witness, testimony as, 50-51, 147

F

Facilities, use of employer's, 119
Family relationship
  brother, 17-18
  brother-in-law, 18
  father as school board member, 18
  son as director, 19
  uncle by marriage, 19
  wife as trustee, 20
Father, family relationship, 18
Federal Home Loan Bank Board, 19, 30
Fees, 20
  accountant's, as "wages," 31
  collection of notes issued in payment of, 143
  and competitive bidding, 96
  estimate, with no prior relationship, 137
  for expert testimony, 50-51
  fixed by courts, *150*
  forwarding, 133
  inadequate, 137, *172*
  notification of change, 144
  offer of service without charge, 96
  and professional standards, *172*
  for recommending accounting forms and systems, 105
  sharing of, 105-110, 133, *158-159, 170*
  tax committee chairman, 138
  see also Contingent fees
"Feeder"
  bank director as, 111
  bookkeeping service as, 140
  business manager as, 119
  for computer center, 130-131
  employment agency as, 113
  finance company as, 114
  insurance salesman as, 114-115
  service bureau as, 134
  stockbroker as, 117-118
  travel agency as, 118
  trust corporation as, 118
Fee sharing, 105-110, 133, *158-159, 170*
  computer center, 107
  computer corporation, 131-132
  estate planning, 113-114
  forwarding fees, 133
  referrals by bank, 146
Fellow board members, mailings to, 102
Fellow members, relations with, *155*
Fictitious names, 144-145, *154*
  for computer center, 130
Fiduciary corporation, independence, 20-21
Finance company, 114
Financial interest, *150*
  in affiliated accounting firm, 29
  in affiliated company, 25
  in bank, 7
  in bonds, 21-22
  in client's parent, 23
  in co-op apartment, 22
  by employee, 21
  indirect, 22-23
  insurance policy, 24
  investment, 26-28
  loans from client, 24
  loans to client, 24
  material, co-trustee with, 38
  see also Stockholder
Financial statements
  association of name with, 53-54
  controller preparation of, 13
  on letterhead, 56
  opinion in, *150-152*
  request for, 103-104
  unaudited, 53-54, 56, *152*
  see also Forecast(s)
Finder, member as, 50
Finder's fee

contingent fees, 50
independence, 25
Fire adjuster, contingent fees to, 108
Firm(s)
association of, 121
bulletin, distribution to publisher, 71-72
designation, 123
economic power, use of, 138
employment ads, "help wanted" for, 140
identical, with different names, 123-124
independence, retired partners and, *169*
non-CPA, employment by, 140-141
partner in two, 125
publications, distribution of, 71, 72
see also Accounting firms
Firm literature
distribution of, 71, 72
house organs, 76
responsibility for, *161*
Firm name, 121, 123-124, *153*, *154*
on bowling shirts, 74
on desk calendars, 74
on EDP manual, 74
on EDP publication, 75
fictitious, 144-145, *154*
when partner becomes public official, 126
on tax booklet, 75
Firm seminar, encroachment and invitations to, 99
see also Educational seminars
Firm title, 123
association of accountants not partners, 120
association of firms, 121
audit with former partner, 121
dissolved partnership, 121-122
fictitious names, 144-145, *154*
sole proprietorship, 123
Forecast(s), 55, *152*
with bond issues, 54
in computer print-out, 59
and pro forma statements, responsibility for, *162-163*
Former partner(s), 116
audit with, 121
insurance loss assignment to, 137
names of, 121-122, 126, *153*
re-entering firm, 13-14
request for client papers, 137-138
see also Retired partner(s)
Form of practice, 120-128, *153-155*
computer corporation, 131-132
Forms and systems, accounting, 105
Forwarding fees, 133
Foundation, fund-raising, auditor as trustee of, 6-7
Franchise, computer service, 107
Fraternity, directory listing, 68
Fund raiser, auditor as, 4
Fund-raising foundation, auditor as trustee of, 6-7

G

Generally accepted accounting principles, *151*
material departure from, *151*
Generally accepted auditing standards, *151*
material omission of, *151*
Golf outing, inviting firm alumni to, 99
Governmental unit, county study group, 25-26
Government work, 99
Gratuity, acceptance of, 1
Greeting cards to clients, 75-76

H

"Help wanted" ads, *see* Employment ads
Highway commissioner, auditor as, 2-3
Holding company
board of directors of, 10
stockholder in, 33-34
House organ(s)
article on doing business abroad, 76
legal qualifications in biographical material of, 76
"House Organs Move Out Into a Wider World," 76

I

Identical firm with different names, 123-124

Inadequate fee, 137, *172*
Incompatible occupations, 111-119, *153*
accounting and bookkeeping assistance, 129
bar, 115
board of directors of client affiliate, 8-9
computer service franchise, 107
confirmation notice for collecting accounts, 54-55
CPA title on research reports, 66
CPA title of nonpractitioner in sales brochure, 79
employee-shareholder in public practice, 132
employment agency, 90
finance company, 114
"finder," 50
forecasts, 55
insurance salesman, 114-115
insurance broker, 114
letterhead for estate practice, 101
liquor store, 115
loan broker, 115
management consulting referral, 102-103
management services, 90
mutual fund salesman, 115-116
nonpracticing CPA, title on employment agency letterhead, 65
public official with public accounting practice, 65
real estate broker, 117
state controller, 117
state secretary of revenue, 117
stockbroker, 117-118
transfer agent, 37
Independence, 1-42, *149-150, 151-152, 166-168*
bank director, 111
in bank financial statements, *172-173*
compensation from nonpractitioner, 106
disclaimer of auditor lacking, *168-169*
fiduciary corporation, 20-21
finance company, 114
finder's fee, 25
identical firm with different names, 124
insurance brokerage, 111
insurance salesman, 114-115
insurance sales to clients, 109
in leasing "block time" to clients, 130
loan broker, 115
in merger, 51
mutual fund salesman, 115-116
partner in two firms, 125
and percentage fees, in mortgage commitment, 51
retired partners and, 26, *169*
retired partner as private investor, 116
state controller, 117
state secretary of revenue, 117
tax practice, 146
testimony as expert witness, 147
Indication of specialties, 128, *163-166*
see also Specialization
Indirect financial interest, 22-23
Inquiry
about available services, 99-100
for client survey, 100
Installment sales contracts, 112-113
Institutional ad, staff recruiting through, 92
Instructor, course, 60, 64, 108, 112
Insurance broker, 114
Insurance loss assignments, 137
Insurance policy as financial interest, 24
Insurance salesman, 114-115
Insurance sales to clients, 109
Internal auditor, member as, 145
Internal publications, *162*
see also Firm literature; Advertising
Interviews, ad in university newspaper announcing, 92
Inventory value, accountant's statement on, 83
Investment, 26
see also Financial interest; Stockholder
joint, *see* Joint investment
Investment advisor, 115
Investor, private, in business and real estate, 116
Irrevocable trust, transfer of shares to, 35-36

J

Jewelry, CPA title on, 65
Joint investment, 26-27
  with client manager, 27-28
Joint venture, 28, 133
  in leasing "block time," 130
Jurisdictions, multiple, CPA title on letterhead for, 62

L

Lawyer-CPA, dual practice, on letterhead, 77
"Lawyer—CPA—Tax Attorney" directory listing, 68-69
Lecture ad, CPA title in, 63
Legal Aid Society, 9
Legal qualifications, in house organ's biographical material, 76
Legal witness, contingent fees, 50-51
Legislator, auditor as, 4
Letter
  on behalf of client, 100-101
  management, 78
Letterhead, 56, 76-77, *164-165*
  academic degrees, 77
  agency, CPA title on, 64-65
  CPA title for multiple jurisdictions on, 62
  dual practice, lawyer-CPA, 77
  employment agency, CPA title on, 65
  "enrolled to practice" on, 77-78
  "established in 1922" on, 76-77
  for estate practice, 101
  lawyer-CPA, 77
  for promotional material, 101-102
  retired partners on, 127
  tax specialization, 77-78
Liability, professional corporation, *154-155*
License plates, "CPA" on, 73
Limited examination of "financial statements," association of name with, 53
Limited partners, 124
Liquor store owner, 115
Literature, firm, *see* Firm literature
Living trust, revocable, trustee of, 40-41
Loan(s)
  to auditor, guaranteed by client, 28-29
  to auditor's corporation, 29
  from client, financial interest, 24
  to client, financial interest, 24
  by employee, 122
  to firm, 122
Loan broker, 115
Local affiliates, audit of clients which are, 135-136

M

Magazine
  alumni, announcement in, 57
  and newspaper articles, *162*
Mailings
  to accountants, 58, 61, 63-64, 66, 102
  to fellow board members, 102
Management advisory services, *166-167, 168, 169-171*
  auditor as consultant, 5
Management consultant(s), 106-107
  auditor as, 5
  non-CPA, partnership with, 128
  referral to, 106, 109-110
Management consulting referral, 102-103
Management letter on scope of the audit, 78
Management services
  commission for, 106
  providing temporary staff services, 90
Market basket, accountant's statement on merchandise in, 82-83
Match folders
  public official's CPA title on, 65
Material departure from generally accepted accounting principles, *151*
Material financial interest, co-trustee with, 38
  see also Financial interest
Material misstatement, *151*
Material omission of generally accepted auditing standards, *151*
Medicare booklet, 78

Member
AICPA, title, 127
as internal auditor, 145
school board, 31
testimonial article paid for by others, 80-81
testimonial letter paid for by others, 81
Membership
association, 2
declaration of, *153*
trade association, 92-93
Membership designation
directory listing, 69
specialization, 79
Membership directory, *see* Directory; Directory listing
"Members of the American Institute of Certified Public Accountants," 127, *153*
"Memory insurance service," 116
Merged company, director of, 16
Merger
contingent fees, 51
independence in, 51
Meter machines, postage, 84
Minority interest in affiliate accounting firm, 29
Minor son, family relationship, 19-20
Mixer partnership, 124, 126, 128, 134
computer corporation, 131-132
Monthly newsletter, 79
Mortgage commitment, contingent fees, 51
Multiple directory listing, 69, *164*
Multiple jurisdictions, CPA title on letterhead for, 62
Municipality, city councilman as auditor of, 12
Mutual fund salesman, 115-116

N

Name(s)
of accounting firm, *153, 154*
in client ad paid for by others, 81-82
in client sales letter paid for by others, 82-83
different, identical firm with, 123-124
of employer's clients, revealing, 47
fictitious, 144-145, *154*
firm, *see* Firm name
former partners, *153*
nonpartner associates, directory listing, 70
partners, directory listing, 70
professional corporation, *154*
"National" Certified Public Accountant, 67
National Conference of Lawyers and Certified Public Accountants, 69
Negative confirmation requests, 97
New partners, press release on, 85
News article
on accountant, 84
on change in staff, 85
Newsletter(s), 79, *161*
business card on, 58
in consulting engagement, 136
and publications, *156*
Newspaper and magazine articles, *162*
Non-CPA, partnership with, 124, 126, 128, 134
Non-CPA firm, employment by, 140-141
Non-CPA management consultants, partnership with, title, 128
Non-CPA partner, 124
responsibility for, 126
Nonpartner associates' names, directory listing, 70
Nonpartner titles, 125
Nonpractitioner
compensation from, 106
CPA-professor, 108
CPA title, 63, 65, 66
in real estate business, 116
re-entering public practice, 13-14
in sales brochure, 79
sharing fees with, 133, *158*
"tax accountant" designation by, 91
as tax committee chairman, 139
Nonprofessional firm, employment by, 140-141
Nonprofessional tenant, 140
Nonprofit organization, trustee of, 39
Nonproprietary partners, 125

Nonrecurring client relationships, *173-174*
Nonregistered accountant, partnership with, 124, 126
Nonregulated businesses, 30
Notes issued in payment of fees, collection of, 143
Notice of employment offer, 143, *155*

O

Occupations, incompatible, *see* Incompatible occupations
Offer
  employment, 143, *155*
  retirement plan, 31
Office premises, *165*
  signs on, 88-89
Office space, shared, 88
Open-end investment trust, salesman for, 115-116
Open house, 103
  press release and, 84
Operating practices, *153-155*
Opinion
  denial of, *160-161*
  disclaimer of, 36, 53-54, 55, 56
  in financial statements, *151*
  independence of member expressing, *172-173*
  see also Independence; Auditor(s)
Opinions, Division of Professional Ethics, *156-175*
  No. 1, 58, 75, *156*
  No. 2, 68, 72, 74, 86, 94, 101, 104, 147, *156-157*
  No. 3, *157*
  No. 4, 59, 60, 64, 79, *157*
  No. 5, 57, 91, *158*
  No. 6, 108, *158-159*
  No. 7, 66, 107, 129-133 passim, *159-160*
  No. 8, *160-161*
  No. 9, 72, 84, 85, 91, 103, *161-162*
  No. 10, 55, *162-163*
  No. 11, 66-72 passim, 79, 88, 90, 100, 126, *163-166*
  No. 12, 5, 9, 13, 21, *166-168*
  No. 13, *168*
  No. 14, *168*
  No. 15, *168-169*
  No. 16, 12, 15, *169*
  No. 17, 114, 126, 144, *169-171*
  No. 18, 137, *172*
  No. 19, 7, *172-173*
  No. 20, *173-174*
  No. 21, 61, *175*
Options, stock, 36-37
Outside commercial ventures, 115, 116, 118
Ownership, professional corporation, *154*

P

Paid for by others
  article on CPA firm in client bulletin, 80
  member's testimonial article, 80-81
  member's testimonial letter, 81
  name in client ad, 81-82
  name in client sales letter, 82-83
  radio program dedication, 83
  radio program on taxes, 83
Paid listing in fraternity directory, 68
Parent of client, financial interest in, 4, 23
Partner(s)
  having separate proprietorship, 125
  limited, 124
  names in directory listing, 70
  non-CPA, 124, 126
  nonproprietary, 125
  retired, *see* Retired partner(s)
  in two firms, 125
Partnership
  dissolved, 121-122
  mixed, 124
  name, dissolved partnership and, 121-122
  with non-CPA, 134
  with non-CPA management consultants, title, 128
  with nonregistered accountant, 126
  roster, title in, 127-128
  successor, 137-138
Patent, CPA title in, 59-60
Payment(s)
  collection of notes issued in, 143
  estate, 108-109
  to a widow, 108-109

Payroll checks, auditor as co-signer of, 3
PD course attendance, press release on, 84
Pension fund, retirement plan, 31
Pension plan, 125
  consultant for, 1
Percentage fees, independence and, in mortgage commitment, 51
Personal checks, CPA title imprinted on, 63
Personnel recruitment, open house in, 103
  see also Staff recruiting
Phone
  charity solicitation by, 95
  consultation by, 98
Planning, estate, 98, 113-114
"Please Check Your Account," 97
Political election, 126
Political endorsement, 83
  CPA title in, 63-64
Popularity polls, confidentiality in tabulating, 82
Postage meter machines, 84
Practice
  bookkeeping, purchase of, 109
  form of, 120-128
  style of, 144-145
  see also Corporate form, practice in
Practice in name of another, 126, 129, *153*
  association of accountants not partners, 120
  association of firms, 121
  audit with former partner, 121
  computer center, 131
  dissolved partnership, 121-122
  referral, 109-110
Practices
  operating, *153-155*
  promotional, *152-153*
Preferred stock, stockholder of, 36
Press release
  on change in staff, 85
  client, on firm, 85-86
  on computer, 85-86
  on new partners, 85
  and open house, 84
  on PD course attendance, 84
  on society chapter meeting, 86
  on speech, 84-85
"Principal occupation," *158*
Print-out, computer, 59
Prior client relationship, 45
Prior relationship, estimate submitted with no, 137
Private investor in business and real estate, 116
Professional association, *see* Trade association
Professional corporation, *153*
  characteristics, *154*
Professional development course, solicitation of participants, 99
Professional integrity, *149*
Professional standards, fees and, *172*
Professorship, 86
Profit-sharing and retirement trust, director as auditor of, 15
Profit-sharing or bonus plan, 105-106
Profit-sharing plan, trustee of, 39-40
Pro forma statements and forecasts, responsibility for, *162-163*
Prohibited acts, *153*
Prohibited self-designations, *158*
Projection in computer print-out, 59
Promotional articles, endorsement of tax service in, 80-81
Promotional booklet on hospital association computer program, 78
Promotional circular, course, 60
Promotional material
  client, firm name on, 74
  letterhead for, 101-102
Promotional pamphlet, brochure showing use of equipment, 57-58
Promotional practices, *152-153*
  see also Advertising; Solicitation
Promotional ventures, names associated with, 82
Promotion efforts, publisher's, *157*
Proprietorship, separate, partner having, 125
Prospective client
  confidence of, 45
  see also Client
Prospectus, bond, preparation of, 30, 112
Public accountants in other countries, *151*
Publications
  internal, *162*

and newsletters, *156*
university, staff recruiting in, 92
see also Advertising; Firm literature
Public official
auditor as commissioner of highways, 2-3
auditor as legislator, 4
CPA title on match folders, 65
firm name when partner becomes, 126
with public accounting practice, incompatible occupations, 65
state controller, 117
state secretary of revenue, 117
Public practice
computer center, 130
controller re-entering, 13-14
employee-shareholder in, 132
Public reports, reproducing, 46
Publisher
distribution of firm bulletin to, 71-72
promotion efforts, *157*
Purchase of bookkeeping practice, 109
Purpose, professional corporation, *154*

Q

Qualifications of accountant, 86-87
Qualified opinion, *151*

R

Radio program
dedication, paid for by others, 83
on taxes, paid for by others, 83
Real estate, business and, private investor in, 116
Real estate broker, 117
Recordkeeper, auditor as, 5
Records retention, 46
agency, 45-46
Recruitment brochures, staff, *162*
see also Staff recruiting
Recurring client relationships, *173-174*
insurance loss assignments, 137
Referral(s), 109-110, *155*
by banks, 146
management consulting, 102-103
Relations with clients and public, *149-150*
Relations with fellow members, *155*
Reporting, auditing and, 53-56
Reproducing public reports, 46
Requests
confirmation, 97
for financial statements, 103-104
for services, *155*
for speaking opportunities, 89-90, 94-95
Research reports, CPA title on, 66
Restrictive employment contract, 142
Resumé, accountant's qualifications, 86-87
Retention of records, successor partnership, 137-138
Retired partner(s), 127, *159*
as director, 30
as "director emeritus" of audit client, 15
and firm independence, *169*
private investor in business and real estate, 116
Retirement and profit-sharing trust, director as auditor of, 15
Retirement plan
offer to join, 31
pension fund, 31
Revocable living trust, trustee of, 40-41
Rotation of auditors, 96
Rules, Code of Professional Ethics, 149-155
1.01, 6-23 passim, 34, 39, 41, 54, *150*
1.02, 46, 52, 137, 147, *150*
1.03, 44, 45, *150*
1.04, 25, 49-52 passim, 108, *150*
2.01, 23, 54, 136, *150-151*
2.02, *151*
2.03, 53, 55, *151-152*
2.04, 55, *152*
3.01, 57, 66-96 passim, 123, *152*
3.02, 84, 93-108 passim, 136, 137, 138, *152*
3.03, *152*
3.04, 105-110 passim, 114, 131, 133, *152*
4.01, *153*
4.02, 103, 106, 107, 120, 121, 123, 128, 145, *153*

4.03, *153*
4.04, 107, 111-118 passim, *153*
4.05, 21, 90, 129, *153*
4.06, 20, 129, 131, 132, *153*
5.01, 96, 98, 101, 102, 131, 136 137, 138, *155*
5.02, *155*
5.03, 140, 143, *155*

S

Sales
contingent fees based on, 49
insurance, to clients, 109
Sales brochure, nonpractitioner in, 79
Salesman
insurance, 114-115
mutual fund, 115-116
SBIC, stockholder in, 34
Schedule of rates, solicitation and, 96
School board candidate, auditor's endorsement of, 7
School board member, 31
father as, family relationship, 18
School board membership, CPA title in campaign for, 63
Scope of the audit, management letter on, 78
Secretary of revenue, state, 117
Self-designations, prohibited, *158*
Seminar(s)
announcement, 63, 64, 87
educational, participation in, *175*
firm, invitations to, 99
program, indication of specialty in, 88
Separate proprietorship, partner having, 125
Service bureau
computer center, 130
as client, 131
consultant to, 132
Service center, employee of, 132
Services
data processing, *159-160*
see also Data processing
inquiry about available, 99-100
request for, *155*
Services of a type performed by public accountants, *153, 159*
Shared billings, commissions, 110
Shared office space, 88
Shares, transfer of, *154*
Sharing of fees, 105-110, 133, *158-159, 170*
Signs
on office premises, 88-89
window, 93
"Situations wanted" ads, 72-73, *166*
Small business investment company (SBIC), stockholder in, 34
Society chapter meeting, press release on, 86
Solicitation, 94-104, *152*
auditor as fund raiser, 4
bank director, 111
board of directors of client affiliate, 8-9
client unable to pay standard fees, 50
coaching course for CPA candidates, 112
competitive bidding, 96
computer center, 107, 130-131
confirmation stickers, 97-98
consultation by phone, 98
consulting engagement, 136
contingent fees to fire adjuster, 108
employment agency, 113
estate planning, 98
finance company, 114
firm seminar, 99
government work, 99
inquiry for client survey, 100
insurance loss assignments, 137
insurance salesman, 114
investment advisor, 115
letterhead for estate practice, 101
letterhead for promotional material, 101-102
letter on behalf of client, 100-101
mailings to accountants, 102
mailings to fellow board members, 102
mutual fund salesman, 115-116
open house, 103
partnership with non-CPA, 134
retired partner as private investor, 116
schedule of rates and, 96
of speaking engagements, 89-90, 94-95
state controller, 117

tax work obtained through bookkeeper, 147
trade association analysis, 104
travel agency, 118
use of firm's economic power, 138
see also Advertising; Encroachment
Son, minor, family relationship, 19-20
Speaker
CPA title in qualifications of, 64
named in tax forum ad, CPA title of, 64
Speaking opportunities, requests for, 89-90, 94-95
Specialization, 90, *169-171*
acquisitions and mergers, 90, 146
computer center, 130-131
in directory listing, 67-68
indication of, 128, *163-166*
inquiry from state department of commerce about available services, 99-100
management services, 90
membership designation, 79
provision of temporary staff, 90
in seminar announcement, 88
in "situations wanted" ads, 72-73
tax, on letterhead, 77-78
"Tax Accountant" designation by nonpractitioner, 91
Speech, press release of, 84-85
Sponsor of bowling team, 74
Staff
change, press release on, 85
of other accounting firms, employment of on behalf of client, 143
Staff recruiting
ad in employment guide, 91
in career opportunity guide, 91-92
through brochure, *162*
through institutional ad, 92
in university publication, 92
State controller, 117
"Statement of Principles Relating to Practice in the Field of Federal Income Taxation," 69
Statements on Auditing Procedure
No. 33, 54
No. 38, 54, 55
State secretary of revenue, 117
Stationery, business, *164-165*
see also Letterhead
Stickers, confirmation, 97-98
Stockbroker, 117-118
auditor of, 7
Stock club, stockholder in, 34
Stockholder, 32
in bank, 32-33
in bank client, 33
and bank director, independence to depositors, 7-8
of common stock, 35-36
in country club, 33
employee as, 21
in holding company, 33-34
of preferred stock, 36
in SBIC, 34
in stock club, 34
in subsidiary, 34-35
Stock options, 36-37
Study group, county, 25-26
Style of practice, 144-145
Subordination agreement, violation of, 48
Subsidiary
board of directors of, 10-11
stockholder in, 34-35
Successor accountant, information to about tax return irregularities, 44-45
Successor partnership, 137-138
Supervisor
as auditor, 37
county, 14-15
Survey
client, inquiry for, 100
trade association, 104

T

"Tax Accountant" designation by nonpractitioner, specialization, 91
Tax attorney, directory listing, 68
Tax booklet, firm name on, 75
Tax broadcast, advertising on, 57
Tax committee chairman, 138
"Tax consultant," *158*
mailings to accountants, 102
Taxes, radio program on, paid for by others, 83
Tax evasion, 47-48
Tax forum ad, CPA title of speaker named in, 64

Tax information, television programs on, 57
Tax liability
contingent fees, 52
and "tax savings," 52
Tax practice, *168*
conflict of interest, 146
Tax return irregularities, information to successor accountant, 44-45
"Tax savings," tax liability and, 52
"Tax specialist," *158*
Tax specialization, letterhead, 77-78
Tax withholding tables, copyright for, 59-60
Tax work obtained through bookkeeper, 147
Technical publications, data processing program ad in, 66
Technical standards, *150-152*
auditing and reporting, 43-44
and bank notice of audit, 95
disclosure of client subterfuge, 43-44
testimony as expert witness, 147
Telephone number, announcements of change in, directory listing, 68
Television programs on tax information, 57
Temporary staff, specialization in providing, 90
Testimonial article, member's, paid for by others, 80-81
Testimonial letter(s)
CPA statement on count of, 83
member's, paid for by others, 81
Testimony, expert, 50-51, 147
Title
AICPA members, 127
CPA, on agency letterhead, 64-65
partnership roster, 127-128
partnership with non-CPA management consultants, 128
see also CPA title
Trade association
analysis, 104
directory, 70-71, *164*
distribution of client figures to, 44
distribution of paper presented at meeting of, 61
membership, 92-93
offer of bookkeeping service, 95
solicitation of speaking engagements before, 94-95
survey, 104
Trade name in marketing copyrighted tax withholding tables, 59
Training manual, staff, firm name in, 73
Training program for new staff members, 73
Transfer agent, 37
Transfer of direct interest to a trust, 37-38
Transfer of shares, professional corporation, *154*
Travel agency, 118
Treasury Department, 47, 77-78
regulations, 147
Trust
administration of, 118
contingent income beneficiary, 37
owning stock in client, trustee of, 41-42
retirement and profit-sharing, director as auditor of, 15
transfer of direct interest to, 37-38
Trust corporation, 118
Trustee
auditor as, 5-6
of college, auditor as, 6
co-trustee of audit client, 38
co-trustee with material financial interest, 38
of fund-raising foundation, auditor as, 6-7
of nonprofit organization, 39
profit-sharing plan, 39-40
of revocable living trust, 40-41
of trust owning stock in client, 41-42
wife as, family relationship, 20
Trust owning stock in client, trustee of, 41-42

U

Unaudited statements, 56, *152*
association of name with, 53-54
Unauthorized practice of law, in bond prospectus preparation, 112
Uncle by marriage, family relationship, 19

University newspaper, ad announcing student interviews, 92
University publication, staff recruiting in, 92
Unqualified opinion, *151*
Use of employer's facilities, 119
Use of name by others, 123, 126, 127-128, 145
  association of accountants not partners, 120
  association of firms, 121
  compensation from nonpractitioner, 106
  management consulting referral, 102-103

V

Violation of subordination agreement, 48

W

"Wages," accountant's fee as, 31
Wheel computer, copyright for, 59-60
White pages, directory listing, 70
  see also Directory; Directory listing
Wife as trustee, family relationship, 20
Window signs, 93
Witness, testimony as expert, 50-51, 147
Working papers, availability of in successor partnership, 137-138
Write-up work, 30
  auditor as recordkeeper, 5
  in data processing services, *159-160*

Y

YMCA, board of directors of, 11